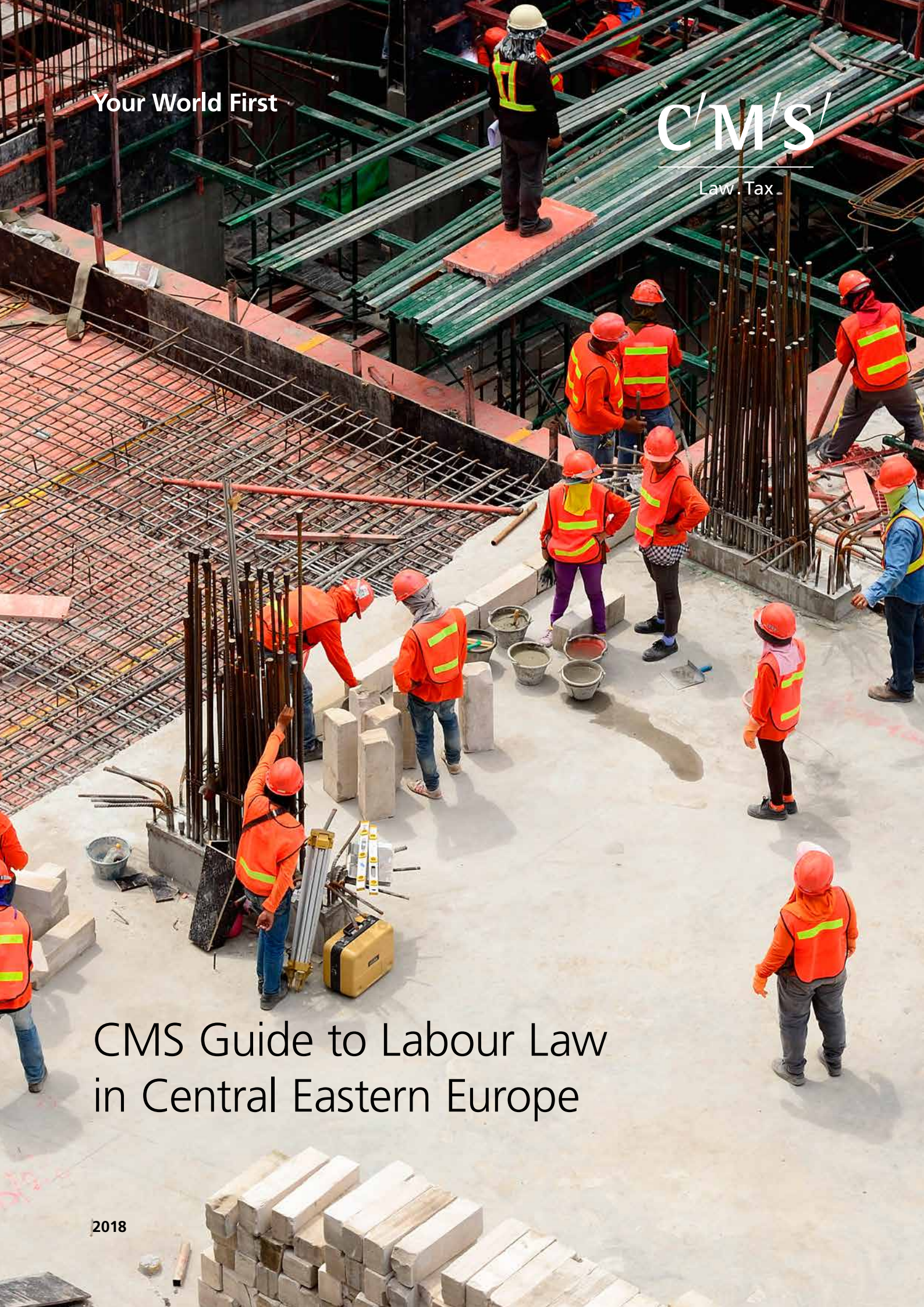

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CMS Guide to Labour Law in Central Eastern Europe

2018

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Preface

The Central and Eastern Europe (CEE) has progressed considerably in catching up with the market economies of Western Europe in the past decades. The European Union is still a driving force, despite the potential Brexit and the economic crisis which affected us all. Still, the political and economic implications of these factors on the labour market are immense, particularly in this developing region whose legal frameworks governing employment have experienced great changes in order to achieve harmonisation with EU legislation. This at the same time meant opening the borders to employees and business, as well as a great need for legal advise to smooth market entry, investment and the migration of employees.

We are proud to say that clients in this region have been relying on our professional and seamless labour law advice for almost three decades now. CMS has offices in eight EU countries, as well as in Bosnia and Herzegovina, Russia, Turkey, and the four EU candidate countries of Albania, Montenegro, Serbia and Macedonia. Our experience and grasp of the legislative intricacies of the labour markets in this region is unmatched by any other law firm. CMS teams in all CEE offices are able to give clients support in all legal areas.

Labour law is a key factor when making an investment decision. Due to our clients' demand for information about labour law in Middle and Eastern-European countries we have summarised the labour and social security law of the most important countries in this guide. We hope you will find it useful in handing general employment matters. For any further and more specific guidance and advice you may need, you can reach out to your regular CMS contact or send an e-mail to employment@cmslegal.com.

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Bosnia and Herzegovina Republika Srpska

1. Hiring workers

1.1. Employment contracts

Written form or written confirmation

The employment relationship is based on an employment contract, which must be concluded in written form and in accordance with the Employment Law of Republika Srpska – consolidated text ("Official Gazette of Republika Srpska" no. 1/16). The employer is obligated to deliver a copy of the agreement to the worker prior to the commencement of employment.

Presumption of open-ended employment

If no fixed duration is stipulated in the employment contract, it is presumed to be an open-ended agreement.

Necessary content

An employment contract must include the following:

- name and address of the employer;
- name, surname, address and qualifications of the worker;
- date of commencement of employment;
- Employment position the worker is assigned to;
- place of work;
- duration and schedule of working hours;
- salary and other types of remuneration;
- holiday entitlement;
- duration of employment (if employment is for a fixed-term);
- term of notice for open-ended employment contracts;
- assignments with special work-place conditions, if applicable; and
- other information the parties consider to be relevant to regulating the employment relationship.

Certain content does not have to be expressly listed, but can be included by referring to the provisions of the employment law, collective agreements or employment rulebooks. Additional information must be listed if the worker is employed to perform temporary and periodic work and if the worker performs work outside the premises of the employer.

Fixed-term employment contracts may only be concluded for a maximum period of two years

A fixed-term agreement can be concluded in cases where the duration of employment is limited due to objective reasons (e.g., a deadline, completion of a specific piece of work etc.). A fixed-term agreement can be negotiated only for a maximum duration of two years. However, the fixed-term employment contract can be extended for more than two years in the following situations:

— if a worker is temporarily absent from work and there is a need for his replacement in the meantime;
— for a project that has a set deadline, but only until said project is completed; and
— if a worker lacks up to 5 pensionable years of employment.

Probationary period

A probationary period may last up to three months. It may, as an exception, be extended for a further three months by the mutual agreement of both parties.

Choice of law

All employment relationships in Republika Srpska are governed by the employment law of Republika Srpska (with the exception of foreign diplomats).

Legal venue

With regard to contractual and statutory rights and duties, it is not possible to exclude the jurisdiction of local courts.

1.2. Service contracts

If a service provider becomes involved in the customer´s business operation

Services may also be provided within the framework of a service agreement i.e. where a contractor commits to providing services in exchange for remuneration. These services may include carrying out specific repairs. However, a service agreement such as this may not be used to avoid adhering to the provisions contained in employment law. As such, if a service provider is involved in the operation of a customer´s business and becomes subject to their directives while carrying out the designated "work", this results in the creation of an employment contract and the term "service agreement" no longer applies.

Please note that managerial or special agreements with directors regulating the rights and obligations of the company and the director may also be referred to as service (or management) contracts. By concluding such an agreement, directors do not enter into an employment relationship, but they are entitled to remuneration in the nature of a salary, as well as other rights and obligations, and responsibilities in accordance with the agreement.

1.3. Employment of foreign citizens

Right of residence and employment of foreign nations

In accordance with the Law on Asylum of BiH ("Official Gazette of BiH" no. 11/16 and 16/16), a foreign individual may only start working in Bosnia and

Herzegovina based on a work permit once his residence permit is approved. Furthermore, the employer cannot conclude an employment contract or other corresponding agreements with a foreign individual before his temporary residence is approved. In order to employ foreign nationals, an employer must comply with the Employment Law of RS and the Law on Employment of Foreign Citizens and Persons without Citizenship of RS. This means that foreign citizens require a work permit in order to work in RS. Members of supervisory boards and founders of companies (if their respective work does not have the character of employment and lasts no longer than three months in a year) and persons who carry out delivery work and assemble equipment (if their work does not last more than 30 days continuously or up to three months in a year) are not considered workers and do not require a work permit. University professors, scientist and researchers hired by universities in RS and foreign military personnel which participate in joint projects with the Armed Forces of BIH in BIH are not required to obtain work permits. Foreign journalists and reporters as well as artists, authors, actors, singers and others participating in cultural events are not considered to be workers and thus are exempt from obtaining work permits.

Work permits

According to the Law on Employment of Foreign Citizens and Persons without Citizenship of RS, the government of RS determines annual quotas for the number of work permits that can be issued. When meeting the annual quota, extensions of work permits have priority over the issuing of new permits. Work permits are issued at the request of the employer who must, inter alia, submit an explanation on the justification of employing a foreign citizen. Requests for work permits will be denied if there are persons registered at the Employment Office with adequate qualifications, except for employers who are foreign investors or founders of a local company which can be granted a work permit regardless of whether there are persons with adequate qualifications registered at the employment office. Work permits are issued for a specific work position and type of work and are issued for a maximum period of one year. Work permits are not transferable between different work positions or employers.

2. Remuneration

2.1. Minimum Wage

Minimum wage pursuant to collective agreements or the employment rulebook

The general minimum wage in RS is determined by the Government of RS on the recommendations of the Economic-Social Council in the last quarter of the current year for the following year. The minimum wage for professions regulated by their own collective agreements can be determined by those agreements, but may not be lower than the general minimum wage.

2.2. Pay raises

Legal basis

Pay raises can be negotiated at either the level of a collective agreement or an employment contract as well as in the employment rulebook that has been decided upon by the employer. However, a general point of reference for all employers does not exist.

2.3. Pay reduction

Only possible with the consent of the worker

In principle, employers can implement changes to salary or working conditions with the consent of the affected worker.

Altering terms and conditions of employment

Alternatively, in order to amend a worker´s terms and conditions of employment an employer may offer the worker an option to conclude an annex to the employment contract that includes the altered terms and conditions. In any event, the minimum wage stipulated in the applicable legislation, collective agreements or employment rulebook passed by the relevant employer must be considered. A worker's refusal to accept the conditions offered in a new employment contract represents a valid reason for termination in itself. If the worker accepts the new employment contract, he retains the right to legally challenge the permissibility of such alteration before the competent court, in accordance with the applicable law.

3. Working hours

3.1. Regular working hours and breaks

Regular daily and weekly working hours

A standard working week consists of 40 hours.

Break time

Full-time workers are entitled to a daily 30-minute break which counts toward their working hours.

3.2. Statutory minimum periods of rest

Minimum daily rest periods of rest

The minimum daily rest period for workers is at least 12 continuous hours between two consecutive working days. This period may be reduced to 10 hours for agricultural and seasonal workers.

Weekly rest periods

Workers are entitled to a weekly rest period of at least 24 continuous hours according to a pre-determined schedule. Weekly rest is generally used on Sundays. However, if a worker is required to work on his rest day, he is entitled to an alternative day of rest as negotiated between the worker and the employer.

3.3. Maximum weekly working hours

52 hours

If the nature and necessity of the work require this, weekly working hours may be increased for a certain period, up to a maximum of 52 hours weekly. However, the weekly working hours for another period must then be reduced, so that the average weekly working hours for a calendar year are no more than 40 hours.

Seasonal work

Seasonal workers may work for up to 60 hours a week for a certain period.

3.4. Overtime

General principles

Workers must work overtime upon the demand of the employer and in case of an unusually high work load or in order to remedy the effects of weather conditions, fire, earthquake, epidemics and other accidents.

Limitations

A worker may work a maximum of 10 hours of overtime a week. As an exception, the worker may voluntarily, upon the demand of the employer, work an additional 10 hours overtime a week. However, the total amount of overtime in a calendar year may not exceed 180 hours. However, collective agreements can determine the total amount of overtime in a calendar year to be a maximum of 230 hours.

Notification of labour inspection office

If the requirement for overtime work lasts for more than three consecutive weeks or for a total duration of ten weeks in one calendar year, the labour inspection office must be notified.

Prohibition of overtime

Minors cannot work overtime under any circumstances.

Instruction to provide overtime based on written agreement

The following occupational groups may only work overtime, upon their written consent:

— pregnant women;
— mothers with children aged 3 years or younger; and
— single parents with children aged 6 years or younger.

Compensation for overtime

Workers are entitled to a salary increase of 25% during the overtime work.

Permitted in principle

Work on weekly rest days is permitted in principle, unless stipulated otherwise by collective agreements.

3.6. Increase of salary for additional efforts

Heavy labour and night work

Workers are entitled to an increase in their basic salary for very complex and important work, for working in difficult conditions and for achieving special work results. The amounts are stipulated by collective agreements or other

applicable regulations. Moreover, workers are entitled to an increase in their basic salary for night work of at least 30%. Night work is defined as work between 10:00 pm and 06:00 am of the next day. If overtime work is conducted during the night, the increases for overtime and night work are added together. Workers are entitled to an increase in their basic salary for work during holidays and other non-working days of at least 40%, as prescribed by law. Higher rates may be stipulated by the employment contract, collective agreements or the employment rulebook.

4. Holiday

Holiday entitlement

Workers are entitled to at least 20 working days of paid holiday per year. When calculating holiday entitlement, public holidays, other statutory non-working days and the worker's absence from work on other legal grounds (such as inability to work) may not be considered. If the employer's work is organised as less than six working days a week, then when calculating holiday entitlements said work will be considered as organised in five working days a week, unless otherwise stipulated by the employment contract, collective agreement or employer's rules.

Increased holiday entitlement

All workers who perform tasks that are particularly harmful to their health are entitled to at least 30 days of paid holiday per year. Minors are entitled to at least 24 days of holiday per year.

Accrual of holiday entitlement

Workers acquire holiday entitlement after 6 months of continuous employment. Workers without 6 months of continuous employment have a right to at least 1 day of holiday entitlement per every month of employment completed.

Use of holiday

A worker may, in principle, use his/her holiday without interruption. However, depending on the demands of the employment, the employer may decide that the worker uses the holiday in two parts. The employer and worker may agree on the use of holiday entitlement in more than two parts, in which case one of the parts must last at least two weeks continuously.

Remuneration

A worker is entitled to his full salary during the use of holiday entitlement, which will be paid if he were at work. The worker may also have a right to an additional holiday supplement in accordance with collective agreements, the employment rulebook or employment contract.

Payment lieu of holiday

A worker cannot waive the right to holiday and the employer cannot deprive the worker of the right to holiday. The employer cannot pay the worker for not using his holiday entitlement. The worker can receive monetary

compensation for not utilizing his annual leave if the worker fails to exercise his right to annual leave due to the employer's fault, e.g. if the employer denies the worker's request for annual leave.

Remaining holidays

If a worker does not use their accrued holiday entitlement within the respective calendar year, the remaining leave can be carried over but must be used by the end of June in the following year.

5. Illness/Absence from work

Duty to notify employer and provide medical certification

If a worker is temporarily unable to work due to an illness or injury, he must immediately inform the employer and deliver a doctor's certificate within three days from the start of his absence. The certificate should confirm the worker´s inability to work and state the anticipated length of time that they will be absent from work. If, due to serious illness, the worker is unable to notify his employer or provide verification of his illness, then members of his family should do so or, if the worker lives alone, he shall deliver the certificate within three days of the reasons preventing him delivering the certificate ending.

Entitlement to continued remuneration

Workers are entitled to remuneration (sick pay) while temporarily unable to work. If the temporary inability is caused by a work-related injury or illness, the remuneration shall amount to 100% of the worker's average salary in the previous period or the salary the worker would have earned had he/she been at work. If the temporary inability is caused by an illness or injury (not work-related), the remuneration shall amount to at least 70% but not more than 90% of the net salary the worker would have earned had he been at work.

Duration of entitlement to continued remuneration

The remuneration for the first 30 days of temporary inability to work due to illness or injury is paid by the employer. After 30 days, the remuneration is paid by the health insurance fund of RS, but for no longer than 12 months. If the temporary inability is due to a work-related injury or illness, the employer is obligated to pay the remuneration for the entire duration of the temporary inability to work until the worker is determined by the relevant bodies to be permanently unable to work.

Worker's duty of disclosure

The worker's duty of disclosure is not specifically regulated, however in practice an employer may, in order to satisfy general pre-conditions for employment, ask to see evidence of the worker's health condition through medical certificates and a certificate on ability to work (if necessary and relevant for the work position in question).

6. Termination of employment

General information

An employment contract is terminated by:
- the expiration of the employment contract;
- the death of the worker;
- the mutual consent of the worker and employer;
- the termination of employment by the employer or worker;
- the worker having worked for 40 years (35 years for women) with paid pension benefits and being of 60 years of age (58 years for women); or 65 years of age with at least 15 years of work with paid pension benefits;
- delivery to the employer of a final decision on permanent loss of the worker's working ability;
- sentencing of the worker to a prison sentence, if the worker is subject to a safety or protection measure with a duration of over three months or if the worker must be absent from work in order to fulfil such sentence or measure;
- a decision of the competent court on a date determined in the court decision;
- termination or ban on the employer's activities as determined by a competent court for a period longer than three months;
- on the request of a parent or guardian of a worker younger than 18 years of age; or
- other reasons in accordance with the applicable laws.

6.1. Formal requirements for the employer

Written form and reasons for termination

Termination of employment by the employer must be done in writing and should state the reasons for the termination. A copy of the termination must be delivered to the worker. Non-compliance with these requirements may result in the termination being invalid. Additional requirements may apply depending on the grounds for termination.

6.2. Terms of notice

At least 30 days (for the worker) or 15 (for the employer)

The minimum notice period for termination of employment by the employer depends on the length of the worker's years of service: 30 days for up to 10 years; 45 days for 10 to 20 years: 75 days for 20 to 30 years; and 90 days for over 30 years of work service, in accordance with the applicable general collective agreement. The minimum notice period for termination of employment by the worker is 15 calendar days. During the probationary period the notice period is 7 days for both the employer and the worker.

Entitlement to remuneration during the notice period

During the notice period on termination of employment, workers are entitled to full remuneration and all other statutory rights.

6.3. Dismissal without notice

Serious breach of duty & failure to return to work

Termination without notice (summary dismissal) is only lawful if the worker commits a grave breach of the work duties prescribed by law such as theft, abuse of power, disclosure of business secrets, violent behaviour, failure to appear for work up to 3 days in a year, and/or providing fraudulent or incorrect information regarding his employment.

6.4. Causes for dismissal

Termination by employer

An employer may terminate an employment contract in accordance with the reasons specified in the applicable law.

Reasons for termination

The employer may terminate an employment relationship for the following reasons:

1. if there is a justified reason for termination (such reasons are prescribed in the applicable law);
2. if the worker commits a grave breach of work duties prescribed by the applicable law (such grave breach is prescribed by law); and
3. if the worker does not follow the employer's work discipline (instances also prescribed by law).

Possibility of continued employment

A worker can be notified about the deficiencies in his work, and be provided with guidelines and a deadline for an improvement in his work abilities. If the worker fails to improve his work abilities within the prescribed deadline, than an employer can move such worker to a more suitable work position within the company.

6.5. Mass redundancies

Definition

If a company with more than fifteen workers wishes to terminate the employment contracts of at least 10% of its workers (this must be five workers at the least) in three months due to a reduction in work needs or for operational, economic or technical reasons, this situation is known as "collective redundancy".

Consultation duties

Before terminating the employment contracts, the employer must consult with the workers' council or, if no workers' council has been set up, the trade union that represents at least 10% of all workers.

6.6. Severance pay

2 year term

A worker with at least 2 years of employment with an employer is entitled to severance pay, except if the contract was terminated because the worker was sentenced for a crime related to work or if the worker fails to return to work

within five days of the end of his unpaid leave or from the end of the pause in his employment. The amount depends on the length of work of the worker.

6.7. Special dismissals protection

Groups protected against dismissals

In RS workers who belong to the following groups may not be made redundant:

— pregnant women, parents during maternity/paternity leave, and parents of disabled children during care leave cannot be made redundant for economical, organisational or technological reasons;
— workers who have suffered a work-related injury or illness may not be made redundant during their inability to work. If the employment is fixed term the period of the inability to work will not be calculated as part of the duration of the employment contract.

Termination only permissible with the approval of the federal ministry of labour

For the duration of their union/workers' council activity as well as one year thereafter, the workers' representative in the workers' council or union may only be dismissed with the prior approval of the minister for labour issues.

6.8. Alteration of occupational circumstances

If a worker's occupational circumstances change, i.e. changes in working ability due to an injury at work or work-related illness and if, after appropriate treatment, the worker is declared as fit for work, he is entitled to return to performing the tasks he performed prior to his inability to work, or other tasks corresponding to his occupational circumstances i.e. work ability. In the event that the worker possesses decreased work capabilities, the employer is under a duty to offer him to another work position in accordance with his abilities (altered occupational circumstances, i.e. change in work capabilities, do not represent a valid reason for termination) and the applicable law.

7. Transfer of operations

Transfer of employment relationships upon consent of personnel

In case of a change in the employer (for example due to the sale of the company etc.), the rights and obligations from employment contracts will be transferred to the new employer if the worker consents to this. The new employer and worker may terminate the employment agreement under the conditions agreed with the previous employer.

8. Co-determination rights

8.1. Unions and business management

Freedom to establish and join a trade union

All workers are entitled to freely establish or join a trade union of their choice under the conditions prescribed by the union statute or rules.

Union representatives in the company
Statutory competence

The unions are free to decide how they wish to represent the rights of their members.
The unions and their member have the following rights:

- entitlement to paid leave for union members to attend appropriate union training seminars during working time, but no longer than five days a year;
- right to comment on the employment rulebook proposed by the employer;
- right to establish workers' councils;
- right to request/initiate inspections by the labour inspectorate;
- strike: right to initiate a strike; and
- representing the rights and interests of workers when negotiating collective bargaining agreements, etc.

Collective bargaining agreements

Aside from these statutory rights, the main influence of unions undoubtedly lies in their capability to negotiate collective bargaining agreements with employers.

Strikes

In RS, in practice strikes or other means of influencing business management can be undertaken by trade unions or workers' councils in the private sector as long as all rights and responsibilities pursuant to collective bargaining agreements and other agreements are observed.

Power of unions

The influence of union and workers' council is generally strongest in large companies and public enterprises.

8.2. Statutory personnel representation

Workers' council

In companies that regularly employ at least 15 workers, a workers' council can be established on the decision of at least one third of the workers or of a trade union representing at least 20% of workers working for the employer. The purpose of a workers' council is to give opinions and proposals regarding workers´ interests. Workers' councils are regulated by the Law on Workers' Council of RS.

8.3. Collective agreements

Collective bargaining agreements and workers' council agreements

Generally, collective agreements are concluded between the government of RS, the representative union confederation for RS and the representative employers' association. Collective bargaining agreements are negotiated between industry/branch representative unions and employer associations. No statutory provisions regarding workers' council agreements exist.

Employer's duty to implement terms of agreement

A collective agreement can be signed at the level of the entire RS, for a certain profession, or for one or more employers. Generally, a collective agreement is only binding on the parties that have signed up to it. However, the ministry of labour may decide to expand application of collective agreements to parties that have not signed it. The general collective agreement is signed for the entire territory of RS and binds all employers in RS.

9. Disputes in courts of labour

9.1. Disputes in courts of labour

Ordinary courts

Ordinary courts are generally responsible for deciding employment-related disputes. For the time being, no labour courts exist in RS.

Arbitral courts

Employment-related disputes can be arbitrated as long as the parties (employer, workers/unions) agree, or have agreed upon this in advance (i.e. in employment or collective bargaining agreements).

9.2. Competency disputes

Arbitration boards

Disputes concerning the conclusion, implementation, adaptation or extension of collective bargaining agreements or other collective disputes should be resolved by agreement of the parties if possible. If not, the dispute is to be resolved by a "peace council".

Composition

The "peace council" consists of three members: one member appointed by the ministry of labour, one by the majority union in the territory of RS and one by the employers' association which represents the majority of employers in RS.

Economic and Social Council

The Economic-Social Council has the purpose of establishing and developing social dialogue regarding issues of professional and social importance for workers. It has three members: one appointed by the ministry of labour, one by the representative majority union in the territory of RS and one by the representative majority of the employers' association in RS.

10. Social insurance charges

General

The social insurance system in RS covers the following risks: motherhood, old age, illness, invalidity and unemployment.

10.1. Social insurance charges and taxes

Social insurance

Social insurance charges are calculated based on gross monthly salaries and include the following:

- Pension insurance: 18.50%
- Health insurance: 12.00%
- Child protection charges: 1.50%
- Unemployment insurance: 1.00%
- Charges for disabled persons: 0.10%

10.2. Health insurance

Basic and additional insurance

In RS, health insurance consists of basic (mandatory) insurance and extended health insurance, both provided by the health insurance fund of RS based on insurance paid. The basic insurance includes benefits in kind (such as medical care) and financial cover (such as pay during temporary inability to work up to one year).

Private health insurance

Aside from the governmental system, private health insurance may also be claimed. Charges and benefits depend on the insurance agreement between the worker and the insurance provider.

10.3. Retirement pension insurance

Single level retirement and accident insurance

In RS, there is a single level mandatory pension insurance system. However, workers may choose to also obtain voluntary pension insurance.

Premature and full old-age pension
Calculating old-age pension

The right to an old-age pension arises at the age of 65, provided that the worker has paid 15 years of pension insurance premiums, or at the age of 60 (58 for women), provided that the worker has paid 40 (35 for women) years of insurance premiums.

The amount of old-age pension granted is calculated, in essence, though a coefficient system using the number of years that the worker has paid insurance as a basis, as well as the salary the worker received in the years he/she paid insurance premiums.

10.4. Unemployment benefit schemes

Cash benefits and programs

The government combats unemployment through numerous labour market policies and supports the unemployed through monetary benefits.

Unemployment benefits

All persons who have paid unemployment contributions (i) for at least eight consecutive months during the last twelve months prior to unemployment or (ii) for at least a total of twelve months during the last eighteen months prior to unemployment, are entitled to monetary benefits, health insurance, and pension and disability insurance (unemployment benefits). Unemployment benefits vary between 35% and 40% of the worker's average net-salary over the last three months prior to unemployment, depending on the number of years for which the worker was insured. The duration of unemployment benefits depends on the number of years insured and can be between 1 and 12 months.

Bosnia and Herzegovina
Brčko District

1. Hiring employees

1.1. Employment contracts

Written form or written confirmation

The employment relationship is based on the employment contract, which must be concluded in written form and in accordance with the Employment Law of Brčko District ("Official Gazette of Brčko District" no. 19/06, 19/07, 25/08, 20/13, 31/14 and 01/15). The employer is obligated to deliver a copy of the agreement to the employee on the first day of commencing employment at the latest.

Presumption of open-ended employment

If no fixed duration is stipulated in the contract it is presumed to be open-ended, unless otherwise stipulated in the collective agreement or the employer later on proves that the contract was a fixed-term contract.

Necessary content

An employment contract must include the following:

— name and address of the employer;
— name, surname and address of the employee;
— duration of employment (if employment is for a fixed-term);
— date of commencement of employment;
— place of work;
— employment position the employee is assigned to and short job description;
— duration and schedule of working hours;
— salary and other types of remuneration;
— holiday entitlement;
— term of notice for open-ended employment contracts; and
— other information the parties consider as relevant to regulate the employment relationship.

If an employment contract is concluded for the purpose of carrying out work outside the employer's premises, the employment contract must in addition include the following:

— method of organizing work outside the employer's premises;
— method of supervising the employee's work;
— term and conditions for use of the means of work and to determine compensation for such use;
— compensation for other operation costs; and
— other rights and obligations.

Fixed-term employment contracts may only be concluded for a maximum period of two years

A fixed-term agreement can only be negotiated for a maximum duration of two years. If an employee renews a fixed-term employment contract, explicitly or implicitly, with the same employer or if he explicitly or implicitly concludes a new employment contract with the same employer for a period of more than 2 years continuously, it is considered that an open-ended employment contract has been concluded.

Probationary period

A probationary period may last up to 6 months. It can be extended once for a further 6 months by mutual agreement of both parties. It cannot exceed a period of 12 months.

Choice of law

All employment relationships in Brčko District are normally governed by the employment law of Brčko District (with the exception of foreign diplomats).

Legal venue

With regard to contractual and statutory rights and duties it is not, in principle, possible to exclude the jurisdiction of local courts.

1.2. Service contracts

If a service provider becomes involved in the customer´s business operation

Services may also be provided within the framework of a service agreement i.e. where a contractor commits to providing services in exchange for remuneration. These services may include carrying out specific repairs. However, a service agreement such as this may not be used to avoid adhering to the provisions contained in employment law. As such, if a service provider is involved in the operation of a customer´s business and becomes subject to their directives while carrying out the designated "work", this results in the creation of an employment contract and the term "service agreement" no longer applies.

1.3. Employment of foreign citizens

Right of residence and employment of foreign nations

In accordance with the Law on the Employment of Foreigners in Brčko District ("Official Gazette of Brčko District", no. 15/09 and 20/10) and the Law on Asylum of BIH ("Official Gazette of Bosnia and Herzegovina", no.

11/16 and 16/16), an employer cannot conclude an employment contract or a contract on conducting temporary and occasional works with a foreign individual prior to the temporary residence being approved for this foreign individual, nor can this foreign individual start his work prior to the residence being approved. In addition to the general legal preconditions and conditions envisaged by the collective agreement or employer's rulebook, the foreign individual must possess a work permit in order for an employment contract to be concluded.

There are certain exceptions to this rule, so that, inter alia and by way of example, the following foreign citizens do not require work permits in Brčko District: members of supervisory boards and founders of companies (if their respective work does not have the character of employment and their work lasts no longer than three months in a year), persons who carry out deliveries and assemble equipment, if their work does not last more than 30 days continuously or up to three months in a year, etc.

Work permits

All foreigners who intend to conclude an employment contract with a domestic, natural or legal entity must possess a valid work permit. The government of Brčko District determines the annual quotas for the number of work permits that can be issued. When meeting the annual quota, extensions of work permits have priority over the issuing of new permits. Work permits are issued at the request of the employer who must, amongst other documents, submit an explanation on the justification of employment for a foreign citizen. Requests for work permits will be denied if there are persons registered at the Employment Office with the adequate qualifications, except for employers who are foreign investors or founders of a local company which can be granted a work permit regardless of whether there are persons with adequate qualifications in accordance with the applicable regulations registered at the Employment Office. Requests for work permits will also be denied if the employer had negative operational results in the previous year, its employees' salaries are below the minimum wage stipulated in the collective agreement or if it did not pay taxes in accordance with the law. Work permits are issued for a specific work position and type of work and are issued for a maximum period of one year, unless otherwise decided by the relevant body as per its discretion.
Once the employer obtains the work permit, the foreign individual must obtain a valid temporary residency permit based on the approved work permit, in accordance with the provisions of the law on the stay, residence and asylum of foreigners in BiH. As stated above, the employee may only start his work after obtaining a validly approved residence permit.

2. Remuneration

2.1. Minimum Wage

Minimum wage pursuant to collective agreements or the employment rulebook

In principle, the parties are free to agree upon such terms as basic salary, possible bonuses and benefits. However, the minimum wage stipulated (either generally or specifically) in the applicable collective agreements or employment rulebook (as decided upon by the relevant employer) must be considered.

2.2. Pay raises

Legal basis

Pay raises can be negotiated at either the level of a collective agreement or an employment contract, as well as in the employment rulebook that has been decided upon by the relevant employer.

2.3. Pay reduction

Only possible with the consent of the employee

In principle, employers can only implement changes to salary or working conditions with the consent of the affected employee.

Altering terms and conditions of employment

Alternatively, in order to amend a worker´s terms and conditions of employment, an employer may terminate the existing employment contract under the conditions of, and in accordance with, the mandatory legal provisions on the termination of employment contracts. They may then re-offer the worker a new employment contract under altered conditions. In any event, the minimum wage stipulated in the applicable legislation, collective agreements or employment rulebook (as decided upon by the relevant employer) must be considered. If the relevant employee refuses to accept the new offer of employment, he is thereby dismissed (general rules in relation to dismissals must be considered in this regard (see point 6.). An employee's refusal to accept the conditions offered in a new employment contract does not represent a valid reason for termination in itself. Furthermore, if the employee accepts the employer's offer then he retains the right to dispute the permissibility of such amendments to the employment contract before the competent court, in accordance with the applicable law.

3. Working hours

3.1. Regular working hours and breaks

Regular daily and weekly working hours

A standard working week consists of 40 hours.

Break time

Full-time employees are entitled to a daily 30-minute break which does not count toward their working hours.

3.2. Statutory minimum periods of rest

Minimum daily periods of rest

The minimum daily rest period for employees is at least a continuous period of 12 hours between two consecutive working days. This period may be reduced to 10 hours for agricultural and seasonal workers.

Weekly rest periods

Employees are entitled to a weekly rest period of at least 24 continuous hours according to a pre-determined schedule. However if an employee is required to work on his rest day, he is entitled to an alternative day of rest negotiated between the employee and the employer.

3.3. Maximum weekly working hours

52 hours

If the nature and necessity of the work require this, weekly working hours may be increased for a certain period, up to a maximum of 52 hours weekly. However, the weekly working hours for another period must then be reduced, so that the average weekly working hours for a calendar year are no more than 40 hours.

Seasonal work

Seasonal workers may work for up to 60 hours a week for a certain period.

3.4. Overtime

General principles

Employees must work overtime upon demand if it can be justified by one of the following reasons:

— force majeure,
— an unusually high workload, or
— for other unanticipated reasons.

Limitations

In the above cases, the employee may work up to 12 hours of overtime per week so that the working week consists of 52 hours. In addition, the employee may voluntarily work for another 10 hours of overtime per week at the written request of the employer. But overtime work cannot last longer than 300 hours a year in total.

If the requirement for overtime work lasts for more than three consecutive weeks or for a total duration of ten weeks in one calendar year, the labour inspection office must be notified.

Notification of labour inspection office

Minors cannot work overtime under any circumstances.

Prohibition of overtime

The following occupational groups may only work overtime upon their written consent:
— pregnant women;
— mothers or adoptive parents with children aged 1 year or younger; and/or
— single parents or adoptive parents with children aged 2 years or younger.

Instruction to provide overtime based on written agreement

Employees are entitled to an increased salary for working overtime. The increase in salary based on overtime is specified in either a collective agreement, an employment contract or employment rulebook, but it cannot be less than 30% of the monthly salary paid for regular working hours.

Compensation for overtime

In principle, work on weekly rest days and holidays is permitted. However, the employee must be paid a higher rate of pay for any work carried out on these days in accordance with the applicable legislation.

Permitted in principle

3.6. Increase in salary for other additional efforts

Employees are entitled to an increased salary for difficult work conditions, night work, as well as work on Sundays and holidays or any other day provided for as a non-working day by the law, in accordance with the collective agreement, employer's rulebook and employment contract. The exact amount of the increase is stipulated by the collective agreement, employment contract or employment rulebook.

Heavy labour and night work

4. Holidays

Employees are entitled to at least 18 working days of paid holiday per year. When calculating holiday entitlement, public holidays and other statutory non-working days may not be considered. Holidays do not include the time spent on temporary inability to work, non-working holidays as well as other leave from work which is recognised as insured service years for the employee. In determining the holiday duration, the working hours are considered to be divided across 5 working days, unless otherwise specified by the collective agreement, employer's rulebook or employment contract.

Holiday entitlement

Increased holiday entitlement

All employees who perform tasks that are particularly harmful to their health are entitled to at least 30 days of paid holiday per year. Minors are entitled to at least 24 days of holiday per year.

Accrual of holiday entitlement

When an employee is employed for the first time or if he has had a break of more than eight days between two employments, he will acquire a right to holiday after 6 months of continuous work. However, such employee is entitled to at least one day of holiday for every month of work.

Use of holiday

An employee may, in principle, use his/her holiday either in one or in more parts. Further regulations on how to use the holiday in more parts should be stipulated in the collective agreement. The employee must notify the employer about the use of holidays within a notice period stipulated in the employment contract. The use of holiday must be approved by the employer.

Remuneration

An employee is entitled to his full salary during the use of holiday entitlement as if he had been at work. The employee may also have a right to an additional holiday supplement in accordance with the collective agreements, work rules or employment contract.

Payment lieu of holiday

An employee cannot waive the right to holidays and the employer cannot deprive the employee of the right to holiday. The employer cannot pay the employee for not using his holiday entitlement.

Remaining holidays

In accordance with the law, further provisions on the method of using holidays are stipulated in the collective agreement.

5. Illness/Absence from work

Duty to notify employer and provide medical certification

If an employee is absent from work due to an illness or accident, he must immediately inform the employer and, upon the employer's request, provide a medical certificate. The certificate should confirm the employee´s inability to work and state the anticipated length of time that they will be absent from work.

Entitlement to continued remuneration

An employee is entitled to remuneration of salary during temporary inability to work caused by sickness or injury or for other reasons, as envisaged by the Law on health insurance of Brčko District ("Official Gazette of Brčko District" no. 1/02, 7/02, 19/07, 2/08, 34/08).

Duration of entitlement to continued remuneration

While on sick leave, employees are entitled to receive remuneration. The employer is obligated to provide remuneration of salary until the 42nd day of

sick leave. The employee is entitled to salary remuneration from the health insurance bureau for up to 12 months of uninterrupted temporary inability to work.

Employee's duty of disclosure

The employee's duty of disclosure is not specifically regulated, but in practice an employer may request to see evidence of satisfaction of general pre-conditions for employment such as the employee's health condition through a medical certificate and a certificate on ability to work.

6. Termination of employment

General information

An employment contract is terminated by the:
- death of the employee;
- mutual consent of the employee and employer;
- termination with notice (ordinary) or without notice (summary dismissal) of employment by the employer or employee;
- the employee fulfils the requirements for retirement stipulated within the laws on retirement of FBIH and RS;
- declaration of invalidity by the competent authority;
- lapse of time (for fixed-term contracts);
- sentencing of the employee to a prison sentence or if the employee is bound by a safety or protection measure with a duration over three months;
- the employee is subjected to a security measure, an educational or protective measure with a duration over three months; and
- a decision of the competent court, on the date determined in the court decision;

6.1. Formal requirements for the employer

Written form and reasons for termination

Termination of employment by the employer must be done in writing and should state the reasons for the termination. A copy of the termination must be delivered to the employee. Non-compliance with these requirements may result in the termination being invalid.

6.2. Terms of notice

At least 14 days by the employer and the employee

The minimum notice period for termination of employment both by the employer or the employee is 14 days.

Entitlement to remuneration during the notice period

During the notice period on termination of employment, employees are entitled to full remuneration and all other statutory rights.

6.3. Dismissal without notice

Serious breach of duty

The employer may terminate the employment contract without notice if the employee is liable for a serious breach or serious breach of work obligations or if the employment is of such nature that the employer cannot be expected to continue the employment relationship.

In case of offense or breach of work obligations that are less severe, the employer will give a written warning to the employee. The written warning must contain a description of the offense and/or the breach of work obligations and the employer's intention to terminate the employment contract without notice in case of repetition.

Promptness

If there is a valid reason for a dismissal without notice, the employee can be dismissed within 30 days of learning about the fact causing dismissal.

6.4. Causes for dismissal

Termination by employee

Employees may terminate employment relationships without giving reasons.

Termination by employer must include objective justification

Employers must provide an explanation (cause) for the termination of the employment contract.

Reasons for termination

The following reasons for dismissing an employee are exhaustively listed in the respective laws:

— if the employer is affected by negative economic and technical circumstances and it is not possible to allocate the employer to a different position or to re-train the employer for different tasks;
— if the employee cannot perform his/her work obligations.

6.5. Mass redundancies

Definition

If an employer employs a minimum of 15 employees and intends to terminate the employment contracts of more than 20% of employee in the next three months due to economic, technical or organisational reasons, then this represents a "collective redundancy".

Consultation duties

Before terminating the employment contracts, the employer must consult with the workers' council or, if no workers' council has been set up, the trade union that represents at least 10% of all employees.

6.6. Severance pay

2 year term

If an employee concludes an employment contract for an unlimited duration and this is terminated by the employer after a minimum of two years of

continuous work (except if the contract is terminated due to breach of employment obligations or non-performance of employment obligations by the employee), then said employee is entitled to a severance payment to an amount depending on his years of continuous employment relationship with that employer. Severance payment is determined based on the collective agreement, employer's rulebook or employment contract, but it may not be lower than 1/3 of the monthly average salary for every year of service as paid to the employee within the last three months prior to termination of the employment contract.

6.7. Special dismissal protection

Groups protected against dismissals

In Brčko District employees who belong to the following groups may not be made redundant:

— pregnant women, parents during maternity/paternity leave and parents of disabled children during care leave cannot be made redundant for economical, organizational or technological reasons; and
— employees who have suffered a work-related injury or illness may not be laid off during their inability to work. If the employment is fixed term the period of the inability to work will not be calculated as part of the employment contract term.

Union/workers' council representatives

For the duration of their union/workers' council activity as well as one year thereafter, the workers' representative in the workers' council or union may only be dismissed with the prior approval of the minister for labour issues.

6.8. Alteration of occupational circumstances

Altered occupational circumstances of an employee such as changes in working ability due to an injury at work or a work-related illness cannot damage the rights of an employee as arising out of an employment relation. An employee that is temporarily incapable of working is entitled to return to work under the condition that he received the necessary treatment and rehabilitation and after the written approval to return to work is issued by relevant physician/health institution. In the event that the authorised physician or health institution state that the employee has a decreased work capability, the employer is under a duty to offer in writing other jobs for which the employee is equipped. The employee that suffered an injury at work or suffered from professional work-related sickness is entitled to professional education and training, as organised by the employer. Only with the approval of the labour inspector can the employer terminate the employment contract of an employee with decreased work abilities due to an injury at work, work-related sickness or if the employee is in direct danger of a disability caused by work.

7. Transfer of operations

Transfer of employment relationships upon consent of personnel

In case of a change in the employer (for example due to the sale of the company etc.), the rights and obligations arising from employment contracts will be transferred to the new employer if the employee consents to this. The new employer and employee may terminate the employment contract under the conditions agreed with the previous employer

8. Co-determination rights

8.1. Unions and business management

Freedom to establish and join a trade union

All employees are entitled to freely establish or join a trade union of their choice under the conditions prescribed by the law.

Union representatives

The unions are free to decide how they wish to represent the rights of their members.

Statutory competence

Unions and their members have the ability to do the following:

- attend appropriate training seminars during working time and have the entitlement to paid leave;
- employer's employment rulebook: right to comment and right to challenge the introduction of such rules before the court (in absence of a workers' council);
- elect workers' councils: right to introduce workers' council election procedures;
- in the absence of a workers' council: right to practice certain rights that are otherwise undertaken by a workers' council;
- expand the competency/scope of a (foreign) collective bargaining agreement:
- right to comment on examinations by the labour inspectorate:
- right to initiate such inspections;
- right to initiate a strike;
- as parties to collective bargaining agreements, unions also represent the rights and interests of employees; and
- as parties to collective bargaining agreements, unions also represent the rights and interests of employees.

Collective agreements

Aside from these statutory rights, the main influence of unions undoubtedly lies in their capability to negotiate collective bargaining agreements with employers.

Strikes

In Brčko District, strikes or other means of influencing business management may in practice be undertaken by trade unions or workers' councils in the private sector as long as all rights and regulations pursuant to collective bargaining agreements and other agreements are observed.

Power of unions

Furthermore, the influence of unions and workers' councils is generally the strongest in large companies and public enterprises.

8.2. Statutory personnel representation

Workers' council

In companies that regularly employ at least 15 employees, a workers' council can be established by the decision of at least one third of the employees or of a trade union representing at least 20% of employees working for the employer. The purpose of a workers' council is to give opinions and proposals regarding employees´ interests.

8.3. Collective agreements

Collective agreements and workers' council agreements

Collective agreements are negotiated between unions and employers or employer representation associations. No statutory provisions regarding workers' council agreements exist.

Employer´s duty to implement terms of agreement

Due to the fact that no general collective agreement exists for the territory of Brčko District, the provisions of specific general collective agreements applicable for territories of the two entities (RS or FBiH) may in practice be applied in regulating the employer-employee relationship.

9. Disputes in courts of labour

9.1. Disputes in courts of labour

Ordinary courts

Ordinary courts are generally responsible for deciding on employment-related disputes. For the time being, no labour courts exist in Brčko District.

Arbitral courts

Employment-related disputes can be arbitrated, as long as the parties (employer, employees/unions) agree to this, or have agreed upon this in advance (i.e. in employment or collective bargaining agreements).

9.2. Competency disputes

Arbitration boards

Disputes concerning the conclusion, implementation, adaptation or extension of collective bargaining agreements or other collective disputes should be resolved by agreement of the parties if possible. If not, the dispute is to be resolved by a "peace council".

Composition

The "peace council" consists of three members: one member representing the employers' association, one member representing the trade union and one member chosen by the parties in a dispute.

10. Social insurance charges

General

The social insurance system in Brčko District covers the following risks: motherhood, old age, illness, invalidity and unemployment.

10.1. Social insurance charges and taxes

Social insurance

Social insurance charges are calculated based on gross monthly salaries and include the following:

- Health insurance: 12.00%
- Unemployment insurance: 1.50%
- Pension and disability insurance: This insurance can be calculated either based on the Law on Pension and Disability Insurance of the Federation of Bosnia and Herzegovina or on the Law on Pension and Disability Insurance of Republika Srpska. In the first case, the charges are 17% (employee) and 6% (employer) and in the second case, only the employee is charged at 18%. The employee is free to choose which entity's social contribution legislation will apply.

10.2. Health insurance

Basic and extended insurance

In Brčko District, health insurance consists of basic (mandatory) insurance and extended health insurance, both provided by the health insurance fund of Brčko District. The level of insurance is based on the insurance paid. The basic insurance includes benefits in kind (such as medical care) and financial cover (such as pay during temporary inability to work up to one year).

Private health insurance

Aside from the governmental system, private health insurance may also be claimed. Charges and benefits depend on the insurance agreement between the employee and the insurance provider.

10.3. Retirement pension insurance

Mandatory and private pension insurance

In Brčko District, the employee is free to choose which entity social contribution legislation will apply since Brčko District does not have its own pension insurance fund.

Premature and full old-age pension

The relevant age requirement will depend on the employee's choice of applicable legislation i.e. whether he will be subject to pension legislation applicable in FBiH or RS.

Calculating old-age pension

The rates for the calculation of the old-age pension will depend on the employee's choice of applicable legislation i.e. whether he will be subject to pension legislation applicable in FBiH or RS.

10.4. Unemployment benefit schemes

Cash benefits and programs

The government combats unemployment through numerous labour market policies and supports the unemployed through monetary benefits.

Unemployment benefits

All persons who have paid unemployment contributions: (i) for at least eight consecutive months during the last twelve months prior to unemployment; or (ii) for at least a total of twelve months during the last eighteen months prior to unemployment, are entitled to monetary benefits, health insurance, and pension and disability insurance (unemployment benefits). The duration of unemployment benefits depends on the number of years insured and can be between 1 and 12 months.

Bosnia and Herzegovina
Federation of Bosnia and Herzegovina

1. Hiring workers[1]

1.1. Employment contracts

Written form or written confirmation

The employment relationship is based on the employment contract, which must be concluded in written form and in accordance with the Employment Law of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia-Herzegovina" no. 26/16). The employer is obligated to deliver a copy of the agreement to the worker prior to the commencement of employment.

Presumption of open-ended employment

If no fixed duration is stipulated in the contract, then it is presumed to be an open-ended agreement. Moreover, if a worker explicitly or implicitly extends the fixed term employment contract with the same employer or concludes consecutive fixed term employment contracts with the same employer for a period longer than three years without interruption, then such contract is considered to be an open-ended contract.

Necessary content

An employment contract must include the following:

— name, surname and addresses of the contractual parties;
— anticipated duration of employment (if employment is for a fixed-term);
— date of commencement of employment;
— place of work or reference to several places of work;
— nature of work and short job description;
— average weekly and daily working hours;
— basic salary and bonuses (including payment date);
— holiday entitlement or method for calculating holiday;
— period of notice, or method for calculating notice period; and
— other data regarding the working conditions, in accordance with the collective agreement.

[1] The law has recently been changed and the term "employee" has been replaced with the term "worker". The English text has been changed to reflect this.

A fixed-term agreement can only be negotiated for a maximum period of three years. It is not possible to get around this by either (i) prolonging a fixed-term agreement with an employer (whether explicit or implied); or (ii) concluding several new fixed-term agreements on a consecutive basis that exceed an overall duration of three years – such employment becomes in these instances an open-ended employment relationship.

Fixed-term employment contracts may only be concluded for a maximum period of three years

If the parties stipulate a probationary period, it may not be for more than six months and must include a notice period of at least seven days.

Probationary period

All employment contracts in the Federation of Bosnia and Herzegovina are governed by the employment law of the Federation of Bosnia and Herzegovina (with the exception of foreign diplomats).

Choice of law

With regard to contractual and statutory rights and duties, it is not possible to exclude the jurisdiction of local courts.

Legal venue

1.2. Service contracts

Services may also be provided within the framework of a service agreement i.e. where a contractor commits to providing services in exchange for remuneration. These services may include carrying out specific repairs. However, a service agreement such as this may not be used to avoid adhering to the provisions contained in employment law. As such, if a service provider is involved in the operation of a customer´s business and becomes subject to their directives while carrying out the designated "work", this results in the creation of an employment contract and the term "service agreement" no longer applies.

If a service provider becomes involved in the customer´s business operation

1.3. Employment of foreign citizens

In accordance with the law on the employment of foreigners of the FBiH ("Official Gazette of FBiH", no. 111/12) and the law on asylum for BiH ("Official Gazette of BiH", no. 11/16 and 16/16), an employer cannot conclude an employment contract or a contract on conducting temporary and occasional works with a foreign individual before the foreign individual's temporary residence has been approved, nor can this foreign individual start his work before his residency has been approved. In addition to general legal preconditions and the conditions contained in the collective agreement or employment rulebook, the foreign individual must possess a work permit for the conclusion of an employment contract.

Right of residence and employment of foreign nations

In accordance with the applicable law, there are several exemptions to the requirement to possess a work permit: a person establishes a company with its corporate seat in FBiH which conducts certain tasks which are not

Work permits

characterised as employment and do not last longer than three months per year; and for foreigners who are seconded by a foreign employer to carry out professional training for persons employed by entities with their corporate seat in FBiH. Said training may last for a total period of three months with interruptions. There are other cases, as specified by the law. Furthermore, the provisions of the law of FBiH on the employment of foreigners do not apply to, inter alia, foreign individuals who are directors of a company and who have a majority of shares in a foreign legal or natural entity.

Upon being informed how many foreigners need to be employed in a certain capacity, the federal employment bureau submits the information on the number of necessary work permits for foreigners to the relevant ministry. The annual quota of work permits is determined based upon this. The cantonal employment bureau can only issue a work permit after the employee has concluded an employment contract with the employer. Notwithstanding the annual work permit quotas, work permits may also be issued in cases where a foreign individual carries out work based on an international agreement.

Once the employer obtains the work permit, the foreign individual must obtain a valid temporary residency permit based on the approved work permit, in accordance with the provisions of the law on the stay, residence and asylum of foreigners in BiH. As stated above, the worker may only start his work after obtaining an approved residence permit.

2. Remuneration

2.1. Minimum Wage

Minimum wage pursuant to collective agreements or the employment rulebook

In principle, the parties are free to agree upon such terms as basic salary, possible bonuses and benefits. However, the minimum wage stipulated (either generally or specifically) in the applicable collective agreements or employment rulebook (as decided upon the relevant employer) must be considered. The Economic-Social Council of the FBIH determines the minimum wage for the territory of the Federation of BIH no later than the 1st December of the current year for the following year. In determining the minimum wage, the Economic-Social Council of the BIH has to consider the increase or decrease of the GDP and the inflation of the national currency.

2.2. Pay raises

Legal basis

Pay raises can be negotiated at either the level of a collective agreement or an employment contract as well as in the employment rulebook that has

decided upon by the employer. However, a general point of reference for all employers does not exist.

2.3. Pay reduction

Only possible with the consent of the worker

In principle, employers can implement changes to salary or working conditions with the consent of the affected worker.

Altering terms and conditions of employment

Alternatively, in order to amend a worker´s terms and conditions of employment, an employer may terminate the existing employment contract under the conditions of, and in accordance with, the mandatory legal provisions on the termination of employment contracts. They may then re-offer the worker a new employment contract under altered conditions. In any event, the minimum wage stipulated in the applicable legislation, collective agreements or employment rulebook (as decided upon by the relevant employer) must be considered. A worker's refusal to accept the conditions offered in a new employment contract does not represent a valid reason for termination in itself. Furthermore, if the worker accepts the employer's offer then he retains the right to dispute the permissibility of such amendments to the employment contract before the competent court, in accordance with the applicable law.

3. Working hours

3.1. Regular working hours and breaks

Regular daily and weekly working hours

A standard working week consists of 40 hours.

Break time

Full-time workers are entitled to a daily 30-minute break. However, this does not count toward their working hours.

3.2. Statutory minimum periods of rest

Minimum daily rest periods of rest

The minimum daily rest period for workers is at least 12 hours over the course of two consecutive working days. This period may be reduced to 10 hours for seasonal workers of the appropriate age.

Weekly rest periods

Furthermore, workers are entitled to a weekly rest period of at least 24 hours, which is generally granted on Sundays. However, if a worker is required to work on his rest day (for operational reasons), he is entitled to an alternative day of rest within a time period negotiated between himself and the employer.

3.3. Maximum weekly working hours

52 hours

Irregular working hours must be justified by operational necessity. If this can be justified, then working hours may amount to 52 hours per week averaged over a certain period.

Seasonal work

Exceptions apply for seasonal workers, who may work for up to 60 hours under certain conditions for a number of weeks.

3.4. Overtime

General principles

Workers must work overtime upon demand if it can be justified by one of the following reasons:
— force majeure;
— an unusually high work load; or
— for other unanticipated reasons

Limitations

In the above stated cases, the worker may work up to 8 hours of overtime per week.

Notification of labour inspection office

If a worker works overtime for three consecutive weeks or a total duration of ten weeks in one calendar year, the labour inspection office must be notified.

Prohibition of overtime

Minors cannot work overtime under any circumstances.

Instruction to provide overtime based on written agreement

The following occupational groups may only work overtime upon their explicit, written consent:
— pregnant women;
— mothers with children aged 3 years or younger; and
— single parents with children aged 6 years or younger.

Compensation for overtime

Workers are entitled to an increased salary for working overtime. The collective bargaining agreement of the Federation of Bosnia and Herzegovina provides that the gross hourly wage is increased by 25% for the overtime work.

Permitted in principle

In principle, work on weekly rest days and holidays is permitted. However, the worker must be paid a higher rate of pay for any work carried out on these days.

3.6. Increase of salary for additional efforts

Heavy labour and night work

A worker is entitled to increased basic salary for more difficult work conditions (noise, moisture, dust, dark rooms, hard labour and other similar cases) as well as for work where strict safety measures apply. This increase is determined in industry-specific collective agreements for individual industries

and business activities whilst taking into account the specifics of every industry. In addition, in accordance with the general collective agreement, a worker is entitled to an increase of at least 25% of the gross hourly wage for night work, 15% of the gross hourly wage for work on days of weekly rest, and 40% of the gross hourly wage on public holidays which are considered by law as non-working days. These increases are not mutually exclusive.

4. Holiday

Holiday entitlement

Workers are entitled to at least 20 working days of paid holiday per year, but a maximum of 30 working days of paid holiday per year. Holidays do not include the time spent whilst being temporarily unable to work, non-working holidays as well as other leave from work which is recognised as insured service years for the worker. If work with a specific employer is organised through a week of less than 6 working days, then when determining the duration of the holiday, it is considered that the working hours are divided across 6 working days, unless otherwise specified by the collective agreement, employment rulebook or employment contract.

Increased holiday entitlement

All workers who perform tasks that are particularly harmful to their health are entitled to at least 30 days of paid holiday per year. Minors are entitled to at least 24 days of holiday per year.

Accrual of holiday entitlement

When employed for the first time or after a period between jobs lasting longer than 15 days, a worker will acquire his holiday entitlement after 6 months of continuous employment. If the worker is not entitled to full holidays, he is entitled to at least one day of holiday for every month of completed work, in accordance with the collective agreement, employer's rulebook on employment and the employment contract.

Use of holiday

A worker may take his holiday in two parts, where the first part must be of at least 12 consecutive days in the calendar year for which the annual leave is granted.

Remuneration

The worker is entitled to paid holidays. In addition, remuneration for using holiday days is specified by the collective bargaining agreements or employment rulebook.

Payment lieu of holiday

An agreement to waive the right to take annual leave or for the employer to provide payment as compensation for not taking annual leave shall be void. A worker can receive monetary compensation for not utilising his annual leave if the worker fails to exercise his right to annual leave due to the

employer's fault, e.g. if the employer denies the worker's request for an annual leave.

Remaining holidays

If a worker does not use their accrued holiday entitlement within the respective calendar year, the remaining leave can be carried over but must be used by 30 June of the following year.

5. Illness/Absence from work

Duty to notify employer and provide medical certification

If a worker is absent from work due to an illness or accident, he must immediately inform the employer and, upon the employer's request, provide a medical certificate. The certificate should confirm the worker´s inability to work and state the anticipated length of time for which they will be absent from work.

Entitlement to continued remuneration

If, for reasons beyond his control, a worker is unable to notify his employer or provide verification of his illness, then he must fulfil the proper procedure as soon as he is able to do so.

Duration of entitlement to continued remuneration

A worker is entitled to remuneration of salary during temporary inability to work caused by sickness or injury or other reasons provided for by the law on health insurance of the FBiH ("Official Gazette of FBiH" no. 30/97, 7/02, 70/08 and 48/11). The employer is obligated to provide remuneration of salary until the 42nd day of sick leave. The worker is entitled to salary remuneration from the relevant cantonal health insurance bureau for up to 14 months of uninterrupted temporary inability to work.

Worker's duty of disclosure

A worker's duty of disclosure is not specifically regulated but in practice, an employer may, in order to satisfy general pre-conditions for employment, request to see evidence of the worker's health condition through medical certificates and a certificate on ability to work.

6. Termination of employment

General information

An employment contract is terminated by:
— the death of the worker;
— on the mutual consent of the employer and worker;
— the age of the worker (at the age of 65 and with at least 20 years of insured service or having completed 40 years of insured service, unless agreed otherwise by the parties);
— declaration of invalidity by the competent authority;
— termination with notice (ordinary);
— termination without notice (summary dismissal);
— the lapse of time (in the case of a fixed-term employment);
— if a worker is sentenced to prison or is subject to a safety or protective measure for more than three months; or
— a final and binding court decision terminates the employment.

6.1. Formal requirements for the employer

Written form and reasons for termination

If the employer wants to terminate the employment relationship, it must do so in writing and should state the reasons for the termination. Non-compliance with these requirements may result in the termination being invalid.

6.2. Periods of notice

At least 7 days (for the worker) or 14 (for the employer)

The minimum notice periods for termination of an employment contract are at least 7 days for the worker and 14 days for the employer. Furthermore, the notice period for probationary work is at least 7 days, as per the applicable law.

Entitlement to remuneration during the notice period

During the notice period for termination of employment, workers are entitled to full remuneration and all other statutory rights.

6.3. Dismissal without notice

Serious breach of duty

The employer may terminate the employment contract without notice if the worker is liable for a serious breach or serious breach of work obligations from the employment contract, and if said breaches are of such nature that the employer cannot be expected to continue the employment relationship. In case of less serious breaches of employment obligations, the employer cannot terminate the employer's employment contract in writing without giving a prior warning.

Promptness

If there is a valid reason for a summary dismissal, the worker must be dismissed within 60 days, but no more than one year from the day of learning about the fact causing dismissal.

6.4. Causes for dismissal

Termination by employer

Employers may only terminate a worker's employment contract in accordance with the reasons given in the applicable law.

Reasons for termination

The employer may terminate an employment contract under the prescribed notice period in cases where:

— termination is justified due to economic, technical or organisational reasons (in this case the employer may terminate the employment contract if, taking into account the size, capacity and economic condition of the employer and the worker's capabilities, it cannot be reasonably expected from the employer to give the worker other jobs or educate or equip him for work in other jobs); or
— the worker is not capable of carrying out his employment contract obligations.

Possibility of continued employment

An employer may only terminate the employment contract of a worker who has reduced working ability or who is at immediate risk of disability with the previous consent of the workers' council.

6.5. Mass redundancies

Definition

If an employer employing a minimum of 30 workers intends to terminate the employment contracts of at least 5 workers for economic, technical or organisational reasons within the period of the next three months, then this represents "collective redundancy".
In these circumstances, the employer must consult with a workers' council or trade union (if no workers' council has been set up).

6.6. Severance pay

2 year term

If a worker who concludes an employment contract for an unlimited duration and this contract is terminated by the employer after a minimum of two years of continuous work (except if the contract is terminated due to breach of employment obligations or non-performance of employment obligations by the worker), then the worker is entitled to severance pay to an amount depending on his years of continuous employment with that employer. Severance payment is determined based on the collective agreement, employment rulebook or employment contract, but it cannot be an amount lower than one-third of the monthly average salary paid to the worker within the last three months prior to termination of the employment contract for every year of service with this employer.

6.7. Special dismissals protection

Groups protected against dismissals

In the Federation of Bosnia and Herzegovina, workers who belong to the following groups may not be made redundant:

— pregnant women, parents during maternity/paternity leave, as well as parents of disabled children on care leave; and
— workers who have suffered an injury at work or have become ill with an occupational disease and are incapable of working.

For the duration of their union activity as well as for six months thereafter, union members may only be dismissed with the permission of the federal ministry of labour.

6.8. Alteration of occupational circumstances

Termination only permissible with the approval of the federal ministry of labour

Altered occupational circumstances of a worker such as changes in working ability due to an injury at work or a work-related illness cannot damage the rights of a worker as arising out of an employment contract. If, after appropriate treatment, the worker is declared as fit for work then he is entitled to return to perform the jobs which he performed prior to his inability to work or do other jobs corresponding to his occupational circumstances, meaning work ability. If the relevant medical institution determines that the worker possesses decreased working capabilities or there is a direct danger of disability, the employer is under a duty to offer to him in writing other jobs which the worker is fit to do. This worker is entitled to an advantage in terms of competency education, training and further schemes to improve performance, as organised by the employer. An employer may only terminate the employment contract of a worker with reduced working capabilities or who is in direct danger of becoming disabled with the prior written approval of the workers' council.

7. Transfer of operations

Transfer of employment relationships upon consent of personnel

If a business is being transferred, the employment contracts of the workers working for the business will also be transferred. That is to say, all rights and duties from the employment relationship between the transferring employer and the workers are adopted by the receiving company upon the consent of the workers.

The receiving employer shall assume all the rights and obligations arising under the transferring contracts and must observe all acquired rights of the workers.

8. Co-determination rights

8.1. Unions and business management

Freedom to establish and join a trade union

In the Federation of Bosnia and Herzegovina all workers are entitled to freely establish or join a trade union of their choice under the conditions prescribed by the law.

Union representatives in the company

The unions are free to decide how they wish to represent the rights of their members in a specific company. As a general rule, one or more union members are elected as representatives.

Statutory competence

Unions and their members are entitled to the following:

- attend appropriate training seminars during working time and entitlement to paid leave;
- employment rulebook: Right to comment and right to challenge the introduction of such rules before the court (in the absence of a workers' council);
- elect workers' council: right to introduce workers' council election procedures;
- in the absence of a workers' council: right to practice certain rights that are otherwise undertaken by a workers' council;
- expand the competency/scope of a (foreign) collective bargaining agreement: right to comment;
- examinations by the labour inspectorate: right to initiate such inspections;
- strike: right to initiate a strike; and
- as parties to collective bargaining agreements, unions also represent the rights and interests of workers.

Aside from these statutory rights, the influence of unions undoubtedly depends on their ability to negotiate collective bargaining agreements with employers.

Collective agreements

In the Federation of Bosnia and Herzegovina, as a general rule, strikes or other means of influencing business management may be undertaken by trade unions or workers' councils, as long as all rights and duties pursuant to collective bargaining agreements and other agreements are observed.

Strikes

Furthermore, the influence of union and workers' council is generally strongest in large companies and public enterprises.

8.2. Statutory personnel representation

Power of unions

In companies with at least 30 workers, a workers' council can be established after a request for this from a trade union or by at least 20% of the workers. The purpose of a workers' council is to represent worker´s interests and communicate their views to the employer. The establishment of workers' councils, as well as all other matters such as their work, tasks and rights, are regulated in the Law on Workers' Council of the Federation of Bosnia and Herzegovina ("Official Gazette of the Federation of Bosnia and Herzegovina" no. 38/04).

8.3. Collective agreements

Workers' council

Collective agreements are negotiated between unions and employers or employer representation associations. No statutory provisions regarding workers' council agreements exist.

Collective agreements and workers' council agreements

A collective agreement can be signed at the level of the entire FBiH, for a certain profession, or for one or more employers. Generally, a collective agreement is only binding on the parties that have signed up to it. However, the ministry of labour may decide to expand application of collective agreements to parties that have not signed it. The general collective agreement is signed for the entire territory of FBiH and is also binding on all employers in RS.

Employer´s duty to implement the terms of agreement

9. Disputes in courts of labour

9.1. Disputes in courts of labour

Ordinary courts

Ordinary courts are generally responsible for deciding employment-related disputes. No labour courts currently exist in the Federation of Bosnia and Herzegovina.

Arbitral courts

Employment-related disputes can be arbitrated, as long as the parties (employer, workers/unions) agree, or have agreed upon this in advance (i.e. in employment or collective bargaining agreements).

9.2. Competency disputes

Arbitration boards

Disputes concerning the conclusion, implementation, adaptation or extension of collective bargaining agreements or other collective disputes which may lead to industrial action must (before respective measures are taken) be discussed in front of an arbitration board ("peace council"), unless the parties agree otherwise.

Composition

The "peace council" consists of three members: one union representative, one employer association representative and one member from a ministerial federal or cantonal list, as mutually nominated by the above.

Economic and Social Council

The Economic-Social Council was founded based on an agreement passed between the Entity Federation of Bosnia and Herzegovina, the cantons, the unions and the employer representation associations.

10. Social insurance charges

General

The social insurance system in the Federation of Bosnia and Herzegovina covers the following risks: motherhood, age, illness, invalidity and unemployment.

10.1. Social insurance charges and taxes

Social insurance

Social insurance charges are calculated based on monthly salaries and include the following:

- Retirement and accident insurance: 6.00 % (Employer) and 17.00 % (Worker)
- Health insurance: 4.00 % (Employer) and 12.50 % (Worker)
- Unemployment insurance: 0.50 % (Employer) and 1.50 % (Worker)

10.2. Health insurance

Basic and additional insurance

In the Federation of Bosnia and Herzegovina, health insurance consists of basic (mandatory) insurance and an additional (optional) insurance. The basic insurance includes benefits in kind (such as medical care) as well as financial cover (such as sick pay).

Private health insurance

Aside from the governmental system, private health insurance may also be claimed. However, charges and benefits depend on the insurance agreement that the worker has signed up to.

10.3. Retirement pension insurance

Single level retirement and accident insurance

In the Federation of Bosnia and Herzegovina, the "classic" single level, i.e. statutory, public and mandatory retirement and accident insurance, applies.

Premature and full old-age pension

The right to an old-age pension arises at the age of 65, provided that the worker has paid 20 years' worth of insurance premiums (premature retirement). Otherwise, the worker can retire at any age after paying 40 years' worth of insurance premiums (full old-age retirement).

Calculating old-age pension

The amount of old-age pension granted is calculated with reference to the number of months for which the worker has paid insurance and the amount of insured income.

10.4. Unemployment benefit schemes

Cash benefits and programs

The government combats unemployment through numerous labour market policies and supports the unemployed through cash benefits.

Unemployment benefits

All persons who have (i) worked for at least eight consecutive months over the last twelve months prior to unemployment; or (ii) paid contributions into the unemployment scheme for at least eight months over the last eighteen months prior to unemployment are entitled to unemployment benefits.

Unemployment benefits amount to between 30% and 40% of the average net salary over the last three months prior to unemployment, depending on the region and the number of months or years for which they were insured. The duration of payment depends on the number of months or years for which they were insured and generally amounts to 6-12 months.

Bulgaria

1. Hiring of Employees

1.1. The Employment Contract

The written form – precedent requirement

An employment contract must be in writing in order to be valid. Any alteration to the employment contract must be made in writing; otherwise, an administrative penalty will be imposed.

Registration of the contract

Employers are obliged to notify the relevant branch of the National Revenue Agency within 3 days of the conclusion or alteration of any employment contract. The employer must then forward details of the essential elements of the contract (e.g. parties' details, term of the contract, amount of remuneration, etc.) to the National Revenue Agency, which controls the collection of social securities and taxes based on the information provided by the Employer.

Issues to be specified in the contract

The employment contract should contain the particulars of the parties and specify the following: the place of work; the job title and nature of the work; the date of the contract's conclusion and the starting date for performance of the contract; the duration of the employment contract; the amount of basic and extended paid annual leave and the amount of additional paid annual leave; an equal period of notice to be observed by both parties upon termination of the employment contract; the amount of basic and supplementary remuneration, as well as the frequency of payment and the duration of the working day/week.
Failure to do so will result in the imposition of an administrative penalty.

Term of the contract

An employment contract can be concluded for either an indefinite duration or for a fixed term. Fixed term contracts can be agreed for periods of not less than 1 year and no longer than 3 years. However, in limited circumstances a fixed term employment contract may be concluded for a period of less than 1 year. A contract of employment is considered to be for an indefinite duration unless expressly agreed otherwise. The fixed term employment

contract shall be transformed into a contract of an indefinite duration if the employee continues to work for 5 or more working days after the expiration of the agreed period, providing the employer does not raise an objection in writing and the position is vacant.

Probationary period

A probationary period of up to 6 months may be stipulated.

Choice of law

The Bulgarian Labour Code applies to all employment contracts in Bulgaria unless otherwise foreseen by another law or international treaty. Therefore, parties are generally not permitted to elect the jurisdiction of any other law.

Jurisdiction, Court Instances

Labour disputes are heard by ordinary courts. The procedure for these hearings is prescribed by the Civil Action Code. The local court has general jurisdiction, which is determined by the place of business and residence of the defendant. On appeal, the court of first instance is the District Court. The court of second instance is the Regional Court of Appeal and the court of third instance is the Supreme Court of Cassation. The choice of another jurisdiction is generally not permitted.

1.2. Service Agreements

General

Bulgarian law recognises both the contract of services and the mandate. These contracts are regulated by the Obligations and Contracts Act,

The Civil Contract – a contract sui generis

In practice a contract, generally known as a "civil contract", has significant relevance in Bulgaria. It takes an intermediate position between the contract of services and the mandate agreement. The civil contract is mainly used to avoid the restrictions and the protection provided for by the labour law (the civil contract allows easier termination, shorter contractual terms, contractual termination without protection of specific groups like mothers, disabled people, etc.).

Managers and Executives

Under the Bulgarian Commercial Act, executives are obliged to conclude management agreements, which are not employment agreements. Thus, the Bulgarian Labour Code does not apply to them and the parties are more flexible upon negotiation of the terms and conditions regarding working time, annual leave, remunerations, termination etc. However, the social security contributions under the management agreements are the same as under the employment agreements.

1.3. Employment of foreigners

Right of residence

The requirements for issuing residence permits are regulated by the following acts: *Act on the Entry into, Residence in and Departure from the*

Republic of Bulgaria of European Union Citizens Who Are Not Bulgarian Citizens, and Members of Their Families, the Law on Foreigners' Residence and the Labour Migration and Labour Mobility Act. Foreign citizens have the option of residing in Bulgaria for a short-term period, for a long-term period and/or permanently, but the application procedure for resident permits for citizens from third countries is more complicated than the application procedure for EU citizens.

The relevant authority is the Bulgarian diplomatic or consular department in the relevant foreign country (when applying for a visa for citizens from third countries) and/or the Bulgarian Migration Authority when no visa is required (for EU citizens) or when the visa has expired.

Work permits

Citizens of the European Union may work in Bulgaria without a work permit. All other foreign employees must hold a valid work permit. As a general rule, work permits are initially issued for a period of 1 year, but can be prolonged after that.

There are numerous exemptions from the requirement to hold a work permit. Those exemptions with practical relevance include:

— foreigners with permanent residence in Bulgaria (unless a special regulation or international agreement exists for his/her position);
— members of the executive and supervisory board, managing directors and permanent representatives of corporations or branch offices of foreign corporations;
— representatives of foreign corporations which are members of the Bulgarian Chamber of Commerce and Industry;
— no work permit is necessary for postings that take no more than three months, but the Bulgarian Employment Agency must be notified of this; and
— foreign staff from embassies, consulates, media representatives and international organisations.

The Employment Agency, as part of the Ministry of Employment and Social Policy, is responsible for the issuance of work permits.

2. Remuneration

2.1. Minimum Wage

Regulation by Law

The Council of Ministers enacts minimum wage ordinances at regular intervals. By way of example, the minimum monthly wage as of 1 January 2018 is set at BGN 510 (approx. EUR 260). The minimum hourly wage is respectively set at BGN 3.07 (approx. EUR 1.60).

In general, minimum wages can also be agreed by collective agreement. Provisions of collective agreements that are less favourable for the employee than those issued by law, or by a former collective agreement binding on the employer, are null and void.

Collective Agreement

2.2. Wage increase

As a matter of principle, unilateral alterations to employment contracts are prohibited. However, the unilateral increase of wages by the employer is permitted and explicitly provided for by the law.

Unilateral increase by the employer

2.3. Reduction

The parties to an employment contract shall mutually agree on a reduction in the amount of remuneration paid.

Only by mutual consent

3. 3. Working Time

3.1. Working Time and Breaks

A standard working week consists of 40 working hours, which amounts to 8 hours per day in a 5-day working week.

Standard daily and weekly working hours

In principle, the organisation of the working time is subject to work rules. Flexi-time, time models and irregular working times are allowed. The employer is entitled to adopt and implement the time models unilaterally after mandatory consultation with the employee's representative, unless otherwise expressly stated by law or a collective agreement.

Working time models

The calculation may be performed weekly, monthly or at periods not longer than 6 months.

Calculation

Breaks are not included in the working time. Employees are entitled to a break of at least 30 minutes daily in order to eat.

Breaks

Employees are entitled to a daily rest period of at least 12 hours. They must also have a weekly rest period of at least 2 consecutive days. In principle, one of these rest days should be a Sunday. Employees must receive weekly a rest period of at least 48 hours.

Daily and weekly rest periods

Working between the hours of 10 p.m. and 6 a.m. is considered to be night work. The standard weekly working time when undertaking night work is up to 35 hours over five days. The standard working time at night is up to 7

Night work

hours in a 24-hour period. Night work is prohibited for the following employees: employees who have not attained 18 years of age, pregnant women and disabled persons on whose health the overtime work has an adverse effect. For mothers of children who have not attained 6 years of age, as well as mothers who take care of children with disabilities (irrespective of the age of the children), overtime work is also prohibited, unless they have given their written consent.

Premium for night work

The premium for night work must be mutually regulated by the parties. The premium is calculated according to the methodology adopted by the Council of Ministers.

Shift work

Shift work is regulated by the law and is very common in Bulgaria. Working time can be organised in two or more shifts. Employees may not work two consecutive shifts and details of shift work must be regulated by office rules.

Work on holidays

Employees who work on official holidays are paid double their normal salary.

Special rules

Numerous regulations that relate to working time exist for different classes of employees. For underage employees and those working under dangerous conditions, the working time must be reduced.

3.2. Maximum daily and weekly working time

Maximum daily and weekly working hours

Operational extensions of the working time are allowed. The maximum daily working time may not exceed 10 hours. An extension is allowable for a period of 60 days per year, but not for more than 20 days consecutively.

3.4. Overtime

General

Overtime work is prohibited in principle. However, as an exception is it allowed in cases of operational extensions. It is also permitted for the performance of national defence activities, in emergency situations, for urgent road and infrastructure work, etc.

Restrictions

The maximum number of overtime hours permitted are:

— up to 150 hours per year;
— up to 30 hours per calendar month for work during the day or up to 20 hours for night work;
— up to 6 hours weekly for day work or up to 4 hours for night work; and
— on 2 consecutive days: up to 3 hours for day work or 2 hours for night work.

Overtime work is prohibited for employees who have not attained 18 years of age, pregnant women and disabled persons on whose health the overtime work has an adverse effect. Overtime work is also prohibited for mothers of children who have not attained 6 years of age, as well as for mothers who take care of children with disabilities (irrespective of the age of the children), unless they have given their written consent

Prohibitions

Overtime payments are made pursuant to an agreement between the parties but minimum rates are provided, as follows:
— 50 % for overtime on working days;
— 75 % for overtime on holidays; and
— 100 % for overtime on public holidays.

Consideration of overtime work

4. Leave

4.1. Legal holiday entitlement

Each year an employee is entitled to receive basic paid annual leave of at least 20 days per year. Longer periods of annual leave can be agreed to in an individual employment contract or in a collective agreement.

Duration of leave

Each employee who has at least 8 months' service acquires the right to the full entitlement of annual paid leave.

Accrual

Employees who work in unhealthy or other special conditions are entitled to additional annual paid leave of at least 5 working days per year.

Enhanced entitlement of paid leave

4.2.Entitlement to paid release from work

Employees are entitled to several days of paid leave in the event of his/her marriage, blood donation, the death of a family member and miscellaneous public duties.

Personal release grounds

Trade union officials are entitled to be relieved from their work for 25 hours per year for the performance of their activities.

Trade Union Officers

Employees who study at secondary or higher educational institutions are entitled to additional paid annual leave of 25 days per year.

Education leave

4.3. Forfeiture

The employers should approve a schedule for the use of the annual paid leave of their employees for the following calendar year by the end of the preceding year. They should also consult on the schedule with the trade

Transfer into the next year

unions and the representatives of the employees. Use of a part of the annual paid leave, up to 10 working days, can be postponed either upon the written request of the employee with the employer's consent due to a valid reason, or upon the initiative of the employer for important reasons related to the business activities of the employer. In any case, no more than 10 days' annual paid leave can be postponed for the following year either upon the request of the employee and/or by the employer. The annual paid leave shall lapse within 2 years of the end of the year for which it is due or as of the end of the year in which the reason for its non-use is no longer present.

On termination of their employment contract, employees are entitled to receive the monetary value of their paid leave entitlement.

Replacement of the leave

As noted above, compensation for outstanding annual leave entitlement is only allowed on termination of an employment contract.

5. Sickness/Inability to perform services

General

Employees have a legal entitlement to be relieved from work if they are temporarily unable to perform their duties due to illness, an accident at work, if they are required to attend a medical examination or to provide necessary care for family members.

Continued remuneration

The cash benefit for temporary disability due to common disease, employment injury and occupational disease shall be paid from the first day of occurrence until working capacity is regained or until disablement is established. The first 3 days shall be paid by the employer, then the remuneration shall be paid by the National Security Institute.

Sick pay

Sick pay for temporary disability due to common disease shall be calculated at the rate of 80 per cent, and sick pay for temporary disability caused by employment injury and occupational disease shall be calculated at the rate of 90 per cent of the average daily gross labour remuneration or the average daily contributory income on which social insurance contributions have been remitted or are due, and for self-insured persons sick pay depends on which social insurance contributions have been remitted for common disease and maternity for a period of 18 calendar months preceding the month of occurrence of the disability.

Medical examination

Compensation for time off work due to illness requires the submission of a medical certificate. This medical certificate has to confirm the disability.

6. Termination of employment

General information

Termination of employment is heavily regulated by the Labour Code. An employment contract may be terminated by mutual consent, by the lapse of time and the fulfilment of work and by other conditions, both with and without notice by the employee/employer. [The employment contract may be terminated based on (i) a mutual agreement, (ii) some objective reasons such as fulfilment of work or lapse of time (for temporary contracts) and (iii) unilaterally by each one of the parties. The grounds for unilateral termination determine whether a prior notice to the other party is required or not, as explicitly described in text below.

6.1. Termination by the employer without notice

Reasons

If the employer wants to terminate the employment relationship, it must do so in writing and should state the reasons for the termination. Non-compliance with these requirements may result in the termination being invalid.

6.2. Disciplinary dismissal by the employer

Work discipline and breach

Disciplinary dismissal is the immediate termination of employment without notice on grounds specifically provided for by the law. Employers are entitled to issue work rules to regulate parties' rights and responsibilities. Whether or not any breach of the work rules is a disciplinary offence is a question of law. Examples of such breaches may be persistent delays, fraud, damaging behaviour or defective workmanship. Disciplinary offences may result in the employee receiving: a reprimand, a warning or eventually being dismissed.

Dismissal reasons

— Reporting to work late (at least one hour after the regular beginning of the working time) or departing early (at least one hour before the regular end of the working time). Such offenses shall occur at least three times within a period of one month.
— Unjustified absence from work for two consecutive working days.
— Systematic violation of disciplinary rules.
— Abuse of the employer's confidence or divulging proprietary information.
— Causing losses to other persons in the trade and service industries by fraud in the quantity and the quality of an item or service.
— Participation in gambling activities using the employer's telecommunication equipment, or
— other grave violations of works discipline.

Proceeding

The dismissal must be issued by the employer, or a person authorised by him, by an order in writing. The dismissal must be effected within two months of the discovery but anyway not later than one year after it is issued.

6.3. Termination by the employer with notice

General

An employment contract may be terminated by the employer with notice only on grounds specifically provided for by the law.

Reasons

These reasons are as follows:

— closure of the enterprise;
— partial closure of the enterprise or staff cuts;
— reduction of the volume of work;
— work stoppage (for more than 15 working days);
— lack of efficiency in an employee's performance at work;
— when an employee does not have the necessary education or vocational training for the assigned position;
— when an employee refuses to work in another business location;
— when the position occupied by the employee is required to be vacated for the reinstatement of an unlawfully dismissed employee who had previously occupied the same position;
— when an employee has obtained an entitlement to an old-age pension;
— when the requirements for the job have been changed and the employee is no longer qualified for it; or
— when it is impossible (on objective grounds) to implement the contract of employment.

Proceeding

Notice of the termination of an employment contract must be given in writing. In principle, the notice period is 30 days unless the parties have agreed otherwise. In any event, the notice period may not be longer than 3 months.

Temporary contracts

Temporary contracts may also be terminated. The notice period is 3 months.

6.4. Termination by the employee with notice

General

An employee may terminate his/her contract of employment without giving specific reasons to his/her employer.

Proceeding

Notice must be given in writing. In general, the notice period is 30 days unless the parties have agreed otherwise. The notice period may not exceed 3 months.

Temporary contracts

Fixed term contracts may also be terminated. The notice period is 3 months.

6.5. Termination by the employee without notice

General

The reasons for termination are specifically provided for by law. Termination without notice on other grounds is not permitted. The following are reasons for termination without notice:

Reasons

— inability to perform the work due to illness and refusal of the employer to offer a suitable job;
— delay of payment of remuneration;
— illegal alteration of the employment contract by the employer;
— if the working conditions under the new employer deteriorate substantially;
— the employee has been selected to move to another office or has been selected to perform work at a research/scientific institute(this being used very rarely);
— working as a replacement for an absent employee and transfer to other tasks for an indefinite duration;
— other irrelevant reasons.

Proceeding

Notice of termination must be given to the employer in writing.

6.6. Protection of the employee of termination

Protected groups of employees

The employment of:
— mothers of children under the age of 3;
— spouses of military servicemen;
— an employee in occupational rehabilitation;
— certain sick employees;
— employees on leave;
— employees who are elected as an employees' representative; and
— pregnant women who have committed a disciplinary offence;
shall only be terminated with the prior approval by the Labour Inspectorate.

Trade union officers

Trade union officials' employment contracts may only be terminated with the prior consent of their trade union.

Collective agreement

For certain kinds of termination, a collective agreement may require the consent of the workers' council.

Childbirth and Pregnancy

The employment of employees taking leave for childbirth and pregnancy can only be terminated in the event of the enterprise (company) being closed.

6.7. Protection against illegal termination of employment

Extrajudicial Proceeding

In the event of an employee's unilateral termination of employment, he/she may demand that: the employer repeals the unilateral termination; he/she is reinstated; and/or that he/she receives any possible compensation. In order to begin these proceedings in court, the employee's claim must be in writing.

Judicial assertion

Claims such as the above are regulated in line with the general civil proceedings. The Civil Action Code provides for the possibility of summary procedure. Claims in employment law proceedings are exempt from fees for the employees.

6.8. Mass redundancy

Definition

Mass redundancies are terminations, by the employer, for reasons not related to the employees themselves, when the number of employment contracts terminated within 30 days are:

- at least 10 in an enterprise where usually more than 20 and less than 100 employees are engaged;
- for at least 10 % of the employees in an enterprise where usually more than 100 and less than 300 employees are engaged;
- at least 30 in an enterprise where usually more than 300 employees are engaged;

Reporting requirement

Employers are obliged to notify the Employment Agency and the employee's staff representatives about mass redundancies at least 30 days before the redundancies take place. This notice must be given in writing.

The administration of the municipality, the respective branch of the National Social Security Institute and the General Employment Inspection must also be informed.

Measures in case of mass termination

The Employment Agency and the municipal administration will require concrete measures in relation to placement and retraining, alternative employment and opportunities for self-employed activities for the dismissed employees.

6.9. Termination of the contract by the employer on payment of compensation

General

Employers shall lawfully terminate employment contracts by paying compensation to employees that have been affected. This represents a new possibility for employers to terminate their employees' employment while still complying with restrictive legal provisions.

Proceeding

Employers can terminate employees' contracts by offering to pay them compensation. Compensation must be at least 4 times the employee's gross monthly salary. Other compensation may be agreed in the individual contract or by offer and acceptance at the time of the termination.

The employee must accept the offer of termination by compensation in writing, and within 7 days. Silence by the employee after the expiration of the 7-day period is deemed to be a refusal.

6.10. Compensation

An employee may claim compensation for illegal dismissal. The maximum amount of compensation that can be paid is 6 months' gross salary.

In case of illegal termination by the employer

7. Company transfer

Employment contracts are not automatically terminated in the case of a fusion, merger, demerger, change of ownership or of a self-contained part thereof, transfer of a self-contained part to another enterprise, change of the legal form or rent and lease of the enterprise or parts thereof. Rather, the buyer automatically takes the position of the employer.

Automatic transfer of the employment

The employer is obligated to inform the company and his/her employees 2 months prior to the intended transfer.

Notice

In case of a merger or fusion, the new owner is liable for the incidental obligations to the employees. In all other cases, the old and the new owner are jointly liable for the obligations owed to the employees.

Liability

8. Rights of co-determination

8.1. Trade unions and corporate management

The Bulgarian Labour Law states that employees of corporations with more than 50 employees are entitled to be represented in the general assembly of the employees in the company. Decisions about employment and social security matters are made after staff representatives' hearings.

Corporations

Employees have various rights to be informed and consulted in relation to different operational and managerial issues such as:

— planned mass redundancies;
— company transfers;
— change of the scope of activity;
— changes in the financial status of the company; and
— changes in the employment organisation.

Informational and consultancy rights

The elected employees' representatives and trade unions representatives have the right to participate in consultations for the elaboration of internal operational rules and norms, which in any way affect the labour process.

8.2. Strike and lock out

General

The right to strike is a basic right pursuant to the constitution. It is regulated by the Law on Arbitration of Collective Employment Disputes.
The strike should be the last legal resort to settle a dispute if the other kinds of settlement have not brought any results or the employer has broken the agreements he/she has made with the parties.

Effective strike

The requirements for the implementation of an effective strike are:
— the existence of a collective employment dispute;
— a claim in writing;
— unsuccessful mediation of the dispute;
— staff assembly decision (in practice by signature lists); and
— notice to the employer of no less than 7 days.

A strike's legitimacy depends on compliance with these legal requirements. Employee participation in any strike must be voluntary. Forced participation is unlawful.

Legal protection

Employers (and employees not participating in a strike) may make a claim to the regional court of appeal, demanding that the strike be declared unlawful. Employees may not participate in unlawful strikes.

Lockout

During a permitted strike, employers must not undertake the following activities with the intention of preventing or cancelling a strike:
— stop the activity of the business or part of it;
— dismiss the employees; and/or
— hire substitute employees in place of the strikers.

Prohibition to strike for certain groups of employees

Strikes are not allowed:
— if the employees' claims are unconstitutional;
— during natural disasters and related urgent and emergency rescue and restoration works;
— in cases of individual employment disputes;
— by employees of the military, police and judiciary; and
— which have the purpose of making political claims.

8.3. Staff representatives and release from work

General

Trade union officials are entitled to be released from work in order to perform their activities for a period of at least 25 hours per year. The duration of the release from work may be the subject of a collective agreement.

Continued remuneration

The employer is required to continue to pay the officer's salary while he/she is away from work.

8.4. Material costs

The Labour Code provides assistance to trade unions through state authorities and employers. Assistance is given in the form of the provision of real property and other assets.

Assistance to trade unions through the state authority and the employers

8.5. Collective agreement

Employment and social security matters can be regulated by collective agreement so far as these are matters not regulated by the law. However, collective agreement provisions may not be less favourable than legal provisions. Collective agreements may be concluded at company, municipal and industry level. A collective agreement must be made in writing and entered in the register of the Regional Employment Inspection.

General

The National Council for Tripartite Cooperation is the acting body for implementation of social dialogue at a national level. Representative organisations of employers, employees and the government participate in the work of the Council. Councils for tripartite cooperation are composed at a municipal and industry level. The National Council is responsible for facilitating discussion and consulting on draft ordinances and laws relating to Bulgarian employment and social security.

Tripartite Cooperation

9. Employment disputes

9.1. Individual disputes

Individual employment disputes are subject to the exclusive jurisdiction of ordinary courts.

Exclusive jurisdiction of the ordinary courts

9.2. Collective disputes

The procedure for the settlement of collective disputes is regulated by the Law on Arbitration of Collective Employment Disputes.

General

The guiding principle is to conduct negotiations to settle disputes by mutual agreement.

Negotiations

If negotiations fail, parties may ask the National Institute for Settlement and Arbitration for assistance in the form of mediation. The National Institute for Settlement and Arbitration is a legal entity organised by the Ministry of Employment and Social policy. Other institutions are also authorised to undertake this service but they are not expressly mentioned in the law as providers of mediation in collective disputes.

Mediation

Arbitral court

If mediation fails, the parties may agree on a hearing before: (1) an arbitral court; or (2) a single arbitrator. Arbitrators and members of the arbitral court are persons registered by the National Institute for Settlement and Arbitration. These court hearings are public.Decisions made at arbitration court are final and there is no avenue for appeal.

10. Social Security

General

The Bulgarian social and health security system consists of:
— medical insurance (compulsory state organised and voluntary private funds);
— state social insurance (which grants compensation, assistance and pensions in case of temporary inability to work, temporary reduced ability to work, invalidity, maternity, unemployment, old age and death);
— additional compulsory pension insurance; and
— additional voluntary pension insurance.

State social security insurance and health insurance are organised on the grounds of reciprocity. The National Insurance Institute and the National Health Insurance Fund are the social insurance providers. Social security contributions are levied by the National Revenue Agency (NAP).

The minimum and the maximum basis for contributions, rates, the level of compensation and assistance for insured events are determined once a year. The maximal social insurance basis for 2017 is BGN 2,600 (approx. EUR 1,329).

Contributions, Percentage rates

The contribution for the state health insurance is 8 % of the gross salary. The other social contributions vary between ca. 23% and ca. 27 %, depending on the category of employment. The categories of employment are regulated in the Social Insurance Code and depend on the challenge and level of danger inherent in the employment, the insured risks and the age of the insured person.

Pension

Pension age and insurance years:

Year of retirement	Age women*	Length of services*	Age men*	Length of services*
2017	61	35 + 4 months	64	38 + 4 months
2018	61 + 2 months	35 + 6 months	64 + 1 month	38 + 6 months
2019	61 + 4 months	35 + 8 months	64 + 2 months	38 + 8 months
2020	61 + 6 months	35 + 10 months	64 + 3 months	38 + 10 months
2021	61 + 8 months	36	64 + 4 months	39

*in years

The entitlement to a state old-age pension arises on reaching pensionable age. The amount is calculated by the sum of the pensionable age and the number of years insured. Other provisions exist for employees in certain categories of employment.

The value of the pension is calculated using complicated mathematical formulas with individual coefficients and averaged remuneration at different periods.

Unemployment

In case of unemployment, persons whose social insurance contributions have been paid or are due from the Unemployment Fund for at least nine months during the 15 months preceding the termination of the social insurance scheme are entitled to financial assistance. The financial assistance is set at 60 percent of the average daily wage or the average daily contributory income for which insurance contributions to the Unemployment Fund have been paid or are due for a period of 24 calendar months preceding the month in which the insurance scheme was terminated. The financial assistance may not be less than the minimum daily amount of the unemployment benefit. Assistance is granted for a maximum period of 12 months.

Maternity

Financial assistance for the care of young children is paid for 2 years after the birth. The employees are entitled to 410 days paid maternity leave, which commences 45 days prior to the expected childbirth. During this period, the employee shall receive a monthly compensation amounting to 90 per cent of her social security income, calculated on the basis of the installments paid for the last 24 months. In addition to this, for the period after the expiration of the 410 days and before the child reaches the age of two years, the employees are entitled to a monthly compensation, paid by the social security, in the amount of the minimal monthly salary.

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Croatia

1. Hiring Employees

1.1. The Employment Contract

Employment contract in writing or written record

An employment relationship is created by an employment contract made in writing. A failure by the parties to sign a written employment contract does not however affect the existence and validity of such a contract. If an employment contract is not made in writing, the employer must issue and deliver to the employee a written record of the employment contract (a written certificate) and its essential provisions (see below).

Presumption in the absence of a written contract and record

If the employer fails either to sign a written agreement between him and the employee or to issue the employee with a written certificate to confirm that an employment contract has been concluded, it shall be deemed that the employment contract was made for an indefinite period of time.

Issues to be specified in the contract

An employment contract must specify at least the following issues:

— names of the parties and their addresses;
— place of work or specification that the work will be performed in various places;
— type of work;
— commencement of work;
— envisaged duration of employment (if employment is for a definite term);
— entitlement to paid leave (or method of assessment);
— notice periods (or method of assessment);
— base salary, bonuses and frequency of payment; and
— daily and weekly working hours.

Fixed-term employment requires justification

An employment contract shall, in principle, be entered into for an indefinite period of time. Hence, a fixed-term contract is only lawful if it is justified by a material and important reason (a time limit, performance of a specific task, occurrence of a particular event). The cumulative duration of all successive fixed-term employment contracts, including the first employment contract,

may not exceed three consecutive years, unless this is necessary for the purpose of replacing a temporarily absent employee or where it is on objective grounds which are allowed by law or a collective agreement (this maximum duration is not applicable to the first fixed-term employment contract). Any change or amendment to the fixed-term employment contract which affects its prolongation shall be regarded as a successive fixed-term employment contract. An interruption of less than two months shall not be regarded as an interruption of the three-year period.

Probationary period

When entering into an employment contract, a probationary period for a maximum of 6 months, with a termination notice period of at least 7 days during such probationary period, may be agreed upon. The employee's failure to satisfy during the probationary period represents the specifically justified reason for the termination of the employment contract.

Choice of law

The choice of law in employment contracts is possible only where the employment relationship involves a foreign element (e.g. in an employment contract between the employee and the employer, either of which is a foreign person). The only requirement when choosing a foreign law is that the principle of the ordre public is complied with. The ordre public principle requires the selected foreign law not to be contrary to the law and order of the Republic of Croatia. Also, mandatory provisions of the Croatian employment law will be applicable, regardless of the chosen law.

Jurisdiction clause

The parties to an employment contract may choose a foreign court for solving a possible dispute; however, they cannot exclude the jurisdiction of Croatian courts for claims filed by the employee.

1.2. Contracts for services

Not a substitute for employment contracts

Other than under an employment contract, services may also be rendered under a contract for services, whereby the service provider undertakes to perform a specific "service" (e.g. to manufacture or repair something) and the principal undertakes to reimburse him for such service. It is important that the purpose of such an agreement is not to evade the obligations under employment law. Therefore, if a service provider is being integrated into the other party's business and is subject to its control, he is most likely to be considered as an employee and the service contract an employment contract, regardless of its label.

1.3. Employment of foreigners

Immigration law and labour market rules

When hiring foreign citizens, in addition to the general conditions required under the Labour Act, special conditions required under the Foreigners Act

must also be fulfilled. Above all, this means that such foreign citizens must obtain either an appropriate residence and work permit (Croatian: dozvola za boravak i rad). Even though the EU citizens are basically allowed to work in Croatia without the obligation to obtain the residence and work permit, Croatia currently imposes restrictions for citizens of certain member states. Therefore, each individual case should be verified as it stands.

Work permits

A residence and work permit is issued for employees, as well as for directors of a Croatian company. The government defines the number of work permits to be issued by means of annual quotas for different groups of occupations. The quota rule does not refer to residence and work permits issued to certain categories of foreigners (e.g. key personnel, workers transferred as part of internal staff transfers within related companies, etc.). In addition, certain categories of foreigners are exempt from the requirement to apply for a residence and work permit and are entitled to work on the basis of a work registration certificate (Croatian: potvrda o prijavi rada), providing they do not work in Croatia for more than 90 days in a calendar year (e.g. foreigners performing assembly works; procurators, directors and supervisory board members not employed by the company; foreigners engaged in educational activities, etc.).

1.4. Special rules for executives?

Senior Staff

The rules on fixed-term employment contracts, termination of employment contracts, notice periods and severance pay do not apply to senior staff that have been appointed as such by the articles of association and are authorised to conduct the business of the employer.

"Mixed-contract" for directors

Directors (management board members) may act under an employment contract or a contract for services. In the latter case, the director's contractual relationship is determined by the general civil law. However, directors may also have a "mixed-contract" comprising elements from both the employment contract and the contract for services.

2. Remuneration

2.1. Minimum wage

Statutory minimum wage

The parties are free to agree on the gross amount of wages, bonuses and further privileges and incentives. However, when doing so, the parties must comply with the legal minimum which is, depending on the educational level of the employee and the complexity of his job, defined by law (specific act or labour law regulations) and other regulations (such as collective bargaining

agreements). The minimum wage is also determined by a special Minimum Wage Act. The minimum wage depends on different factors and is determined once a year for the next year (for the period from 1 January 2017 to 31 December 2017 the minimum wage amounts to gross 3,276.00 HRK (= approx. EUR 437).

Collective agreements and staff rules

If the employer is covered by a collective bargaining agreement, then the minimum levels of wage set out by such an agreement must also be observed. Employers with more than 20 employees who are not bound by any collective agreements must determine minimum levels of wage and the frequency of payments by means of internal staff rules ("staff rules").

2.2. Pay increases

Legal basis

Pay increases are usually agreed upon individually by the parties or come about as a result of collective bargaining. Moreover, they can also be provided for by staff rules. It should be noted that there is no general point of reference for pay increases.

2.3. Reduction of wages

Only with the employee's consent

If the employer wishes to pay the employee a lower wage, or to amend any other part of the employment contract, he must obtain the consent of the employee.

Termination of employment and offer of a new employment contract

However, if the employee withholds such consent, the only way for the employer to amend the present employment contract (i.e. the employee's wage) would be to unilaterally terminate the employment contract of that employee. The employer could then concurrently offer the employee another employment contract containing the amended terms and conditions (i.e. the lower wage). It is necessary to stress that the employer may not propose any terms and conditions, including with respect to wages, which are below the minimum as defined by the Labour Act, the respective collective bargaining agreement or the staff rules. Should the employee decline the proposal for the execution of a new employment contract containing the amended terms and conditions (i.e. wages), the employer's proposal should be treated as a termination of employment to which the rules governing ordinary termination apply (see section 6.).

3. Working time

3.1. Standard working hours and breaks

Daily and weekly standard working hours

A regular working week consists of 40 working hours, which when distributed evenly, amounts to 8 hours per day (provided that the working week consists of 5 days).

Paid breaks

An employee working at least 6 hours per day is entitled to a minimum 30 minutes break each day. The break time is included in the working hours.

3.2. Minimum rest periods

Daily minimum rest period

An employee is entitled to a daily rest between two successive working days of at least 12 consecutive hours. Where an employee is of full age and works on a seasonal job, the daily rest may be shortened to 8 consecutive hours.

Weekly minimum rest period

An employee is entitled to a weekly rest period of at least 24 consecutive hours, which generally means that they do not work on Sundays. If there is an urgent need for an employee to work on Sundays, he must be afforded equivalent periods of compensatory weekly rest right after the working time in which he had no weekly rest or had a shorter period of rest.

3.3. Maximum working hours

48 hours per week

In case of rescheduled working hours, which must be justified by special business needs, the working week may be extended to 48 hours. Exceptionally, the working week may be extended to 56 hours per week, but only if the employee gave his consent and if that possibility was envisaged by the collective bargaining agreement.

Seasonal jobs

Extension of the working week also applies to seasonal jobs subject to the collective bargaining agreement or consent by the employee. Under certain circumstances the working week may amount to a maximum of 60 hours.

3.4. Overtime work

General principle

Overtime work is only allowed in the following circumstances (and at the employer's written request):

— in force majeure cases;
— if there is an extraordinary rise in the volume of business; and
— in other cases where an urgent business need exists.

In any event the employer may not request more than 10 hours of overtime work per week and 180 hours per year (unless otherwise provided for in collective agreement, in which case it may not exceed 250 hours a year).

Under-age employees are absolutely barred from working overtime.

Limits to overtime work

The following employees may be ordered to work overtime only with their explicit written consent (except in the case of force majeure):

Written consent of the employees' required

— pregnant women;
— a parent with a child of up to 3 years of age;
— a single parent with a child of up to 6 years of age;
— employees working part-time with more than one employer; and
— employees working an additional 8 hours a week with another employer.

Overtime work is to be compensated for. The amount of the compensation is stipulated in the collective agreement, the employment contract or the staff rules. There are no statutory rules on the amount of compensation for overtime work.

Compensation of overtime work

3.5. Working on weekends and public holidays

Work on Sundays and on public holidays must be justified by a special business need in order to be lawful. Employees working on such days are entitled to an increased payment.

Requires special business needs

3.6. Premiums for night work and heavy-duty work

Apart from overtime work and working on Sundays or public holidays, an employee is also entitled to an increased payment for heavy-duty work and night-shift work. The amount of the premium may be specified in collective bargaining agreements, in the employment contract or in the staff rules.

4. Paid annual leave (holiday)

Each calendar year an employee is entitled to receive paid annual leave for the duration of at least 4 weeks. Public holidays and statutory non-working days are not accounted for in the calculation of annual leave. The exact number of working days that will be accounted as annual leave has to be determined in a collective bargaining agreement, staff rules or an employment contract.

Minimum holiday entitlement

Employees working on jobs affecting them harmfully and under-age employees are entitled to a 5 weeks of paid annual leave.

Enhanced entitlement to paid leave

An enhanced entitlement to annual leave may also be provided for in collective bargaining agreements, staff rules or employment contracts.

Accrual of holiday entitlement

When employed for the first time, or after a period between jobs lasting longer than 8 days, an employee will acquire his leave entitlement after 6 months of continuous work.

Consumption of holiday

If the employee uses his annual leave in portions, he must use at least two consecutive weeks of annual leave in the calendar year for which he exercises the right to annual leave, unless otherwise agreed upon by the employee and the employer (provided of course that the employee has acquired the entitlement to annual leave exceeding two weeks).

Compensation

During his annual leave, the employee shall be entitled to receive compensation of wages to an amount specified in the collective bargaining agreement and the staff rules. However, this must be an amount equal to at least his average monthly wage during the past 3 months.

If the employment contract is terminated, the employee is entitled to compensation for the unused part of his annual leave.

Payment in lieu of holiday

An agreement, whereby the employee waives his right to take annual leave or agrees to accept payment of a compensation instead of taking annual leave, shall be null and void.

Transferral of unused holiday to the next year

If the holiday is not consumed in full during one year, the second portion may be taken at the latest by the thirtieth day of June (inclusive) in the next calendar year.

5. Sick pay

Notification and medical certificate

In case of temporary inability to work due to illness or injury, employees are obliged to notify their employer immediately. The employee also has to provide a medical certificate within a period of 3 days that confirms his inability to work and the expected duration. If the employee cannot comply with these obligations without being at fault, he must do so as soon as possible.

Sick pay

During the period of sick leave the employee is entitled to receive sick pay on the basis of his average salary for the preceding 6 months, but this may not be less than 70% [of the prescribed basis] (depending on the type of sickness). In Croatia, however, it is common practice for the employee to receive the full (net) salary throughout the whole period of sickness.

If the employee´s sick leave lasts longer than 42 days, then sick pay is to be paid by the Croatian Health Institute.

Reimbursement

When negotiating an employment contract, the employee is obliged to inform the employer of any health problems that might influence his ability to work or endanger the health of other employees or other people that the employee will have contact with during the course of his employment.

Duty to inform at the outset of employment

6. Termination of Employment

An employment contract may be terminated:

General background

- by the death of the employer as a natural person or upon termination of the trade (Croatian: obrt) by virtue of law or via deregistration of the sole trader, in accordance with special legislation;
- by mutual consent of the employee and employer;
- upon a written declaration by one of the parties, whilst observing the notice period (termination with notice);
- upon a written declaration by one of the parties without observing the notice period (termination without notice);
- after the lapse of the period for which it has been concluded;
- on the employee's 65th birthday (after at least 15 years of service), unless agreed otherwise between the parties to the employment contract;
- by declaration of the court;
- by ascertainment of invalidity by the competent authority; and
- upon the death of the employee.

6.1. Formal requirements to be observed by the employer

If the employer wishes to terminate a contract, the declaration has to be made in writing and should state the reason for the termination of the contract. Furthermore, the employer has to specify the payments that are to be made to the employee upon the termination of the employment. Non-compliance with these requirements may result in the termination being null and void.

Written form and information on reasons and payments required

As to the involvement of the employees' representatives, see section 6.7.

Employees' representatives

6.2. Notice periods

Notice periods are proportional to the employee's duration of service with the same employer and amount to at least 2 weeks for one year of employment. After the first year the employer has to observe a notice period

Varying notice periods

of 1 month. After 2 (5, 10, 20) years of service the statutory notice period will then amount to 1 month and 2 weeks (2 months, 2 months and 2 weeks, 3 months). After 20 years of service the notice period increases by 2 weeks for employees aged at least 50 years and by 1 month for employees aged at least 55 years. During the notice period the employee is entitled to receive his salary and all other entitlements under statute.

6.3. Termination without notice (summary dismissal)

Serious breach of the employee's duties

Termination without notice (summary dismissal) is only lawful if there is a serious breach of the employee's/employer's duties or another important reason that renders the continuance of the employment relationship no longer possible.

Forfeiture after 15 days

If there is a valid reason for a summary dismissal the employer should not wait for longer than 15 days after the breach to declare the dismissal, otherwise he will have forfeited his right to do so.

6.4. Requirement of a valid reason to terminate the employment

General rule and exceptions

Unlike the employee, the employer must generally have a lawful reason for terminating an employment contract.

Reasons of dismissal

The following valid reasons for dismissing an employee are set out exhaustively in the Labour Act:

— redundancy situations due to economic, technical or organisational reasons (dismissal for redundancy);
— inability of the employee to duly perform his duties under the employment contract (dismissal based on the employee's abilities or state of health);
— violation by the employee of his obligations arising from the employment contract (dismissal for misconduct); and
— the employee did not provide satisfaction during the probationary period (dismissal due to incompetence during probationary period)

Criteria for the selection process

With respect to the first categories, the employer is obliged to take account of the length of employment, support obligations and age of the employee.

Exemptions for small businesses

Businesses with not more than 20 employees are exempted from this requirement. The employer only has to prove a valid reason for the dismissal.

Re-engagement

If the employer, wants to recruit a new employee for the same job within a 6 month period following the dismissal for redundancy, he must first offer the employment contract to the employee whose contract was previously terminated.

6.5. Mass redundancies

Definition

An employer who in a period of 90 days makes at least 20 redundancies, out of which at least 5 employment contracts are be terminated due to business reasons, shall be obliged to conduct consultations with the workers' council, with a view to reaching an agreement aimed at avoiding redundancies or reducing the number of employees affected. The redundancies include the employees whose employment contract are to be terminated for business reasons and by means of an agreement between the employer and the employee, as proposed by the employer.

Redundancy social plan, information and consultation

In such a case, the employer has to consult with the workers' council, and a redundancy social plan has to be set up. In addition, the employer has to inform the Croatian Employment Agency. If there is no workers' council, the employer has to consult with the trade union commissioner (i.e. employee representing the trade union).

Sanctions for failure to consult

If the employer fails to consult with the works' council any dismissals are null and void. In addition, the authorities can impose a fine upon the employer that can amount to 60,000.00 HRK.

6.6. Severance payments

2-year qualifying period

If an employee with at least 2 years' service is dismissed due to business reasons or for reasons relating to the employee's non-ability and state of health (i.e. first two categories of dismissal), he is entitled to a severance payment. The minimum amount of the severance payment is calculated by multiplying one third of the average salary paid in the last 3 months with the number of years of continuous employment. Furthermore, the severance payment is capped at the amount of 6 times the average monthly salary unless otherwise stipulated in law, staff rules, collective agreements or employment contracts.employment rulebook or employment contract, but it cannot be an amount lower than one-third of the monthly average salary paid to the worker within the last three months prior to termination of the employment contract for every year of service with this employer.

6.7. Involvement of the works' council (trade union)

Requirement to inform the trade union

Prior to declaring a termination of employment the employer must inform the workers' council (or trade union commissioner, if there is no workers' council) and consult with it. In case of a termination with notice the works' council must comment on the proposed dismissal within the following 8 days (summary dismissal: 5 days).

Workers' council may oppose the proposed dismissal

The works' council may oppose the termination if it deems it to be unjustified or if the employer has violated any formal requirements.

Collective redundancies

Special rules apply for collective redundancies (see section 6.5.).

6.8. Employees with special protection against termination of employment

Protected groups with high standard of protection against dismissal

In Croatia, employers may not terminate the employment contract of the following persons:

— pregnant women during their pregnancy and maternity leave, parents and adoptive parents when exercising their right to work part-time, adoptive parents during the adoption leave, parents/adoptive parents during leave for the purpose of nursing a child with severe disabilities (the foregoing bars will remain in force 15 days after the end of pregnancy or cessation of exercising the above rights); and
— remployees who have suffered an injury at work or have become ill with a work-related illness and are temporarily unfit to work due to treatment or recovery;

Dismissal requires the prior consent of the workers' council (trade union)

The employment of the following persons may be terminated only with the prior consent of the workers' council (trade union):

— members of the workers' council;
— candidates for the workers' council and members of the election committee, for 3 months after the results of the elections have been established;
— employees with diminished working capacity or employees under direct threat of physical disability;
— employees over 60 years of age;
— workers' representatives in the supervisory board of the company; and
— trade union commissioner during their term of office as trade union commissioner and six months thereafter.

Remedies for the employer

If the workers' council (the trade union commissioner) does not provide their approval in relation to the dismissal within 8 days, the dismissal shall be deemed to have been approved. If the approval is explicitly denied, the employer may bring the matter before a court or may seek an arbitration award.

6.9. Changing terms and conditions of the employment contract

Rejection of the new contract

It was mentioned above (see section 2.3.) that the employer may terminate the employment contract and at the same time offer the employee a new employment contract with changed terms and conditions.

If the employee declines the new contract, the employer's proposal shall be treated (and shall serve), as a notice of termination to which the rules governing an ordinary termination apply (specifically with a view to the valid reasons for termination, which must exist and be stated). The sole fact that the employee declined the employer's offer to enter into a contract under the different conditions is not a valid reason for termination.

7. Business transfer

Automatic transfer of contracts of employment

If a business (or a part thereof) – a so called "commercial unit" – is being transferred to another natural or legal person, the employment contracts of the employees working for the business will also be transferred ex lege. That is to say that all the rights (arising under the employment relation that existed up to the day of such transfer) of the employees whose employment contracts are being transferred shall survive the transfer. The employer to whom employment contracts are so transferred shall assume, as of the day of such transfer, all the rights and obligations (unchanged in form or extent) arising under the transferring contract.

Collective bargaining agreement

If a collective bargaining agreement has been made, it will also be transferred and remains valid until the execution of a new one, but no longer than for a period of one year after the transfer.

Duty to inform employees

The former employer must inform the employees in writing on the transfer of their contracts to the new employer. The employer is also obliged to consult with the workers' council on the expected legal, economic and social consequences that may arise for the employees as a consequence of their contracts being transferred to a new employer.

Liability of the employers

If the business is transferred to the new employer, both the former and the new employer become jointly liable for those employment obligations towards the employees which arose before the transfer.

8. Industrial relations

8.1. Trade unions and the management of the business

Freedom to establish and join a trade union

In Croatia, the employees have the right, without difference, to freely establish a trade union and join it under the conditions prescribed only by its by-laws or rules. Moreover, a trade union is guaranteed the right to represent its members in labour disputes against the employer, before the

court, arbitration or governmental authorities, provided that it is organised as an association and registered in accordance with the Labour Act.

Trade union representatives within the undertaking

Trade unions may independently decide on the form of their representation within an employer's company. Trade unions which have at least five members employed by an employer may appoint or elect one or more trade union commissioner (Croatian: sindikalni povjerenik). Trade unions whose members are employed by a particular employer may appoint or elect one or more trade union representatives (Croatian: sindikalni predstavnik).

Trade unions and their representatives within the undertaking have various statutory rights, including:

— staff rules: right to comment and right to challenge such rules before the court (in the absence of a workers' council);
— election of workers' councils: right to initiate the election process, to propose a list of candidates and, in case of illegality or irregularity of the elections, to demand that the court annul the elections;
— in the absence of a workers' council: certain rights that are otherwise given to the workers' council;
— dismissal or exclusion of workers' council members: right to demand a judicial review of such a decision;
— extension of the scope of a collective agreement by decree of the Labour Minister: right to comment;
— lock-out: right to challenge such a measure before the courts and claim damages;
— inspection by the labour inspectorate: right to initiate such inspections;
— strike: right to initiate a strike; and
— trade unions are parties to the collective agreements in which they represent the interests of employees.

Collective agreements

Apart from these statutory rights the influence of trade unions is partly reflected in collective agreements. Today the processes of transformation and privatisation are almost complete, and the majority of collective bargaining agreements are already in force and are complied with both by employers and employees.

Strikes

Globally speaking, the Republic of Croatia does not suffer from major social unrest, strikes or other forms of interference in company operations by workers, trade unions and workers' councils, unless such operations jeopardise the employees' rights under the collective bargaining agreements, staff rules, etc.

8.2. Workers' councils

Workers' councils

In larger companies (of at least 20 employees), the employees´ interests are represented by a workers' council, which is elected for a 4 year term. The right to elect and to be elected accrues to all employees of the same employer.

Number of workers' council members

The number of workers' council members depends on the size of the workforce:

up to 75 employees	1 member
76 – 250 employees	3 members
251 – 500 employees	5 members
501 – 750 employees	7 members
751 – 1000 employees	9 members
1001, 2001, etc.	2 additional members each time

Employees´ representatives in the supervisory board

If, in accordance with specific provisions, a body (supervisory board, management board or another appropriate body) that supervises business management is established in a company or a cooperative society, then one member of said body that supervises business management shall be a workers' representative. If the same body is set up in or a public institution, one member of said public institution's body shall be an employees' representative.

Rights of information

The statutory rights of the workers' council concern information, consultation and co-determination.

The employer has to inform the workers' council every 3 months in relation to the following issues:

— business situation, results and work organisation;
— expected business developments and their impact on the workers' economic and social status;
— trends and changes in salaries;
— the extent of and the reasons for the introduction of overtime work;
— the number and type of employees employed, employment structure (the number of fixed-term employees, employees at alternative workplaces, employees assigned by temporary employment agencies, employees temporarily posted to/from an associated company, etc.) as well as employment development and policy;
— the number and type of employees to whom they have given written consent to work for another employer;
— health protection and safety at work policy and measures taken in order to improve working conditions;
— outcomes of work inspections and safety at work conditions; and

other issues with particular importance for the economic and social position of employees.

Rights of consultation

— The employer has to consult the workers' council on the following issues:
— staff rules;
— recruitment plan, transfer and termination of employment;
— expected legal, economic and social consequences that might arise for the employees from the transfer of employment contracts to a new employer;
— measures in connection with the protection of health and safety at work;
— introduction of new technologies and changes in the organisation and modes of work;
— annual leave plan;
— working hours schedule, including night-shift work; and
collective redundancies and all other decisions that must be rendered in consultation with the workers' council.

Rights of co-determination

Finally, the employer may not pass a decision without the prior consent of the workers' council on:
— terminating the employment of a member of (or a candidate for) the workers' council;
— terminating the employment of an employee with diminished ability to work and of an employee under direct threat of physical disability;
— terminating the employment of an employee who is older than 60;
— terminating the employment of an employees´ representative on the supervisory board;
— selecting persons for collective redundancy, except in cases when the employer has initiated or is conducting liquidation proceedings in accordance with specific provisions;
— collecting, processing, using and forwarding personal information about workers to third parties; and
— appointing a person authorised to supervise the administration of the personal information about the workers.

Sanctions

Whereas failure of the employer to inform the workers' council as required under the law is considered a misdemeanour, the failure to consult with the workers' council results in the nullity of any action taken in this regard.

Remedies for the employer

Whenever the consent of the workers' council is required it can be supplemented by a decision of an arbitration body.

8.3. Release from work to conduct workers' council activities

6 hours per week

Each worker's council member is entitled to receive 6 hours per week paid leave for workers' council activities. This entitlement to paid leave can be transferred to other council members, so that in larger companies single workers' council members may be entitled to be completely released from work. The workers' council usually holds meetings during working hours.

8.4. Financial and/or technical assistance for workers' council's activities?

It is the employer´s obligation to secure the necessary room, staff, funds and other work conditions for the workers' council. However, the employer is not obliged to pay overtime for workers' council activities after the regular working hours.

8.5. Collective agreements and works agreements

Collective agreements and works agreements

Collective agreements are concluded between trade unions and the employer or an employers´ organisation. Apart from agreements with the trade unions the employer may also enter into agreements with the workers' council ("works agreements").

Duty to incorporate into employment agreements

In either case the agreement is only binding on the parties thereto, but the employer has the duty to incorporate the provisions of collective and works agreements, in so far as individual rights of employees are concerned.

9. Employment disputes

9.1. Employment disputes in general

Ordinary courts

Employment disputes are primarily tried by the ordinary courts. No special labour courts have existed up until now (except for in Zagreb). Some matters may be referred to special authorities (e.g. to the Administrative Court).

Arbitration

Arbitration is another possible way of resolving a labour dispute, but it is only available where the parties have agreed to this in either the employment contract or in a collective bargaining agreement.

9.2. Disputes related to collective agreements

Conciliation committee

Disputes which could result in a strike have to be resolved before a conciliation committee ("peace council") unless the parties agree to an alternative method of dispute resolution.
The conciliation procedure is conducted by a person chosen with the consent of both parties from a list established by the Economic and Social Council.

Economic and Social Council

The Economic and Social Council has been established pursuant to an agreement between the government, trade unions and employers' associations. Among other duties, this body prepares a list of conciliators and arbitrators.

10. State Benefits

General background

The Croatian system of social security covers the following risks: maternity, age, sickness, invalidity and unemployment.

10.1. Contributions for social insurance and taxes

Social security

Contributions for social insurance are calculated on the basis of the employee's monthly wage and consist of the following amounts:

— pension insurance: 20% (payable by the employee)
— health insurance: 15% (payable by the employer)
— accident insurance: 0.50% (payable by the employer)
— unemployment insurance: 1.70% (payable by the employer)

Taxes

In Croatia, taxes on income amount to 24% or 36% of the employee´s monthly wage. Additionally, a communal tax may be levied in some communities.

10.2. Health insurance

Basic and supplementary health coverage

In Croatia, the state system consists of (compulsory) basic health coverage and an (optional) supplementary insurance coverage. The basic coverage provides for medical treatment as well as for monetary benefits.

Private insurance companies

Apart from the state system, private insurance companies cover a variety of health services as set out in the individual insurance contract.

10.3. State pensions

3-pillars system

The Croatian pension system consists of three pillars. The first pillar is based on the so-called "generational solidarity", the second one on the individual savings. Both systems are compulsory in their nature. The third pillar is based on voluntary savings.

Regular pension

In Croatia, the required age for the regular pension is age 65 for men and is currently 61 years and 9 months for women (the prescribed age for women is being progressively increased at a rate of three months per year, and it will reach 65 years by 2030). The prescribed age for both sexes is being progressively increased at a rate of three months per year starting from 2031 and it will reach 67 years by 2038. Furthermore, the employee must have accumulated at least 15 years of service.

Early retirement

After 35 years of service men can claim an early retirement pension (women: currently 31 years and 9 months) provided they are at least 60 years (women: currently 56 years and 9 months) of age. The prescribed years of service and years of age are being progressively increased at a rate of three months per year, and this will reach 35 years of service and 62 years of age by 2030.

Calculation of the pension

Basically, the key factors for the calculation of the pension (either ordinary or early) are the person's age, the duration of his pension scheme status, and his salary during his working life.

Private pension funds

Since the pension reform in 2002 several private pension funds have been established in Croatia.

10.4. Unemployment benefits

Unemployment benefit

The state supports the unemployed through various employment incentive programs and monetary benefits.

Unemployed persons must have done at least 9 months' work within 24 months to be entitled to financial support. The unemployment benefit amounts to at least 50% of the minimum salary.

The duration of the unemployment benefit depends on the time spent in work and ranges between 90 and 450 days. Unemployment benefits are not limited in time for persons with at least 32 years of service and who will become eligible for a regular pension within 5 years.

Czech Republic

1. Hiring Employees

1.1. The Employment Contract

Determination of employment

The employment relationship is created by either:

— an employment contract between the employer and the employee
— or by appointment
— in the case of heads of government agencies, state funds, state enterprises, the Police, organisations receiving contributions from state budget or their branches

Issues to be specified in the contract

The employment contract has to at least state the type of work that the employee will perform, the place or places of work and the date on which the employee will start working.
The employment contract can also specify other items that are of interest to the parties, such as wage/salary, working hours, trial period or benefits. The employee´s wage/salary is often stipulated in a separate wage clause, internal regulations, payment decree or in a collective agreement.
The employer must hand over one copy of the contract to the employee.

Written form required

The employment contract must be in writing. However, failure to do so can be rectified later on. Due to lack of written form, the employment contract may be held invalid only if challenged before the date on which the employee starts performing work. Afterwards, the employment contract must be considered as valid but an employer who fails to conclude employment contracts in writing may be subject to a fine by the Labour Inspection Authority.

Term of the employment

The employment contract lasts for an indefinite period unless a fixed term has been previously agreed upon. The duration of an employment law relationship for a fixed term between the same contracting parties must not exceed 3 years and may be repeated twice at the most from the date of commencement of the first employment law relationship for a fixed term.

Extension of an employment law relationship for a fixed term shall also be deemed to be repetition of the employment law relationship. If a period of 3 years has lapsed from the end of the previous employment law relationship for a fixed term, no account shall be taken of the previous employment law relationship for a fixed term between the same contracting parties.

The Labour Code further states that employers have the right to deviate from the rules on fixed term employment described above, if there are justified reasons to do so. As an example, the employer can renew an employee's agreement on more than two consecutive occasions where the employer requires employees for the summer season only.

Should the employer apply his own rules and deviate from the Czech Labour Code, the alternative rules should be included in the employer's internal policy. If the employees are represented by trade unions, the employer's alternative rules must be further included in the agreement with the trade unions.

Probation period

The parties can agree on a probationary period. The agreed period of probation period may not be longer than 6 consecutive months in the case of managerial employees and 3 consecutive months in the case of other employees and once agreed, it cannot be subsequently extended (even if it is originally agreed for a period of less than 3/6 months) but it can be shortened if the parties agree. The probationary period cannot be agreed upon after the commencement of the employment relationship (i.e. on the day when the employee starts performing work at the latest).

Choice of law

The choice of law made to govern the employer-employee relationship is possible if the employment contract relates to laws of different countries, e.g. if the employer or the employee are foreign nationals or if the substantial part of the work is to be performed outside the territory of the Czech Republic. Notwithstanding the above, the fact that the parties have chosen a foreign law shall not (where all the other elements relevant to the situation at the time of the choice are connected with one country only) prejudice the application of rules of the law of that country which cannot be derogated from by contract. Furthermore, a choice of law made by the parties shall not have the result of depriving the employee of the protection afforded to him by the mandatory rules of the law which would be applicable in the case of absence of choice of governing law by the parties (see below).

Example: *The work should be habitually carried out in the territory of the Czech Republic; therefore the governing law would be Czech in the case of absence of choice of law (see below). With regards to the fact that the maximum standard working hours under the Czech Labour Code are 40*

hours per week, the maximum standard weekly working hours of the employee will be 40, even if the governing law agreed by the parties would allow up to 45 hours per week.

In other cases, the application of a rule of the governing law stipulated by the parties may be refused only if such application is manifestly incompatible with the public policy (*"ordre public"*) of the forum.

Governing law in case of the Absence of Choice

In cases where choice of governing law is permissible (see above) and no governing law has been agreed by the parties, the governing law is determined on the basis of the private international law provisions. In such a case, the Convention on the Law Applicable to Contractual Obligations (to which the Czech Republic is a party) provides for that the employment contract shall be governed by the law of the country in which the employee habitually carries out his work in performance of his employment contract (lex loci laboris), even if he is temporarily employed in another country. If the employee does not habitually carry out his work in any one country, then the law of the country in which the place of business through which he was engaged shall govern the employment contract. However, should it appear from the circumstances as a whole that the employment contract is more closely connected with another country, then the contract shall be governed by the law of that country.

EU-Directives

The Czech Republic Labour Code complies with EU law.

Jurisdiction clause

Czech law does not allow agreements on the choice of court concerning disputes arising from employment relationships.

1.2. Other contractual types

Contract for work that is not part of the employer-employee relationship

The Czech legal system only allows the establishment of labour relationships under the Labour Code, i.e. the Employment Contract, the Agreement on Work Performance and the Agreement on Working Activity. The basic type of contractual agreement in employment law is the Employment Contract. The Agreement on Work Performance and the Agreement on Working Activity are intended only for part-time or temporary jobs as they provide substantially less rights to the employee than the Employment Contract (e.g. the employee is not entitled to paid leave, the agreements are much easier to terminate for the employer than the Employment Contract etc.), however these types of contractual agreement still create an employer-employee relationship.

The only method of "employing" other legal subjects (artificial or natural persons – entrepreneurs - who are holders of respective trade licenses)

outside the scope of labour law is outsourcing, i.e. to hire them under a commercial law contract (e.g. mandate agreement, a contract for work or other suitable commercial law contract). However, please note that this may not result in permanent employment of particular natural persons, which would in fact replace labour law relationships between the employer and such persons. Such "commercial law relationships" would be regarded as a "hidden labour relationship" by the Labour Office and the employer would be subject to monetary sanctions up to CZK 10,000,000 (approx. EUR 400,000) from the Labour Inspection, as well as to other monetary sanctions from the tax office, state social administration and health insurance company, including payment of due social and health contributions (incl. late interests). In more serious cases, the responsible managers of the employer and/or the employer company itself may be also subject to criminal liability.

As stated above, under Czech law there are two types of employment agreements other than an Employment Contract, namely an Agreement on Work Performance and an Agreement on Working Activity.

Part-time work agreements

The Agreement on Work Performance is intended for temporary and seasonal jobs only. Under this agreement, an employee cannot work for the same employer for more than 300 hours per calendar year. If the income under an Agreement on Work Performance does not exceed CZK 10,000 (approx. EUR 400), parties do not have to pay any social security and health insurance contributions (but do have to pay taxes).

The Agreement on Working Activity is intended mainly for long-term part time jobs and the average scope of work under an Agreement on Working Activity may not exceed 20 hours per week (respectively 18.75 or 19.375 hours per week for certain jobs). The observance of the agreed, maximum permissible scope of weekly working hours shall be assessed for an entire period for which an agreement on working activity was agreed. However, this period must not be for more than 52 weeks (even if the Agreement on Working Activity was concluded for longer or indefinite term).

With the help of part-time workers the employer can ensure performance of work that would be inefficient under a standard Employment Contract.

1.3. Employment of foreigners

EU/EEA citizens and citizens of Switzerland

Citizens of EU/EEA/Switzerland and their relatives have the same rights as citizens of the Czech Republic and do not need any work permits. The Labour Office however keeps records of all such employees.

Corporate and residence permit, green cards

Where a foreign citizen from somewhere other than EU/EEA country or Switzerland is to be employed (a "foreigner"), the employer can employ him or her only on the basis that they have permission to work and a residence permit, or if they hold an employee card, blue card or Intra-Company Employee Transfer Card. A foreigner must apply for permission to work before he starts working in the Czech Republic. The Labour Office will grant the work permission for a maximum period of 2 years (in practice, work permissions for employees with higher level of education are usually granted for longer period than in the case of less qualified employees) , the validity of which can be repeatedly extended. The work permission is not necessary in certain cases (e.g. if the foreigner has permanent residency in the Czech Republic or the foreigner is a refugee or asylum seeker etc.).

No exemptions for foreign personnel

All foreign citizens have the same rights in the employer-employee relationship as citizens of the Czech Republic.

1.4. Special rules for executives?

Statutory representatives or members of statutory bodies

Labour law does not explicitly regulate the function of a statutory representative. The performance of a statutory representative or a statutory body member can only be regulated by a contract providing the basis of the function or by the mandate contract, both of which must be in accordance with the Commercial Code. The statutory body may however assign several tasks from the company business leadership to its individual members so that these are performed within an employment relationship between the company and the statutory body member. Based on such assignment, an employment agreement may be concluded with the statutory body member. In such a case, the remuneration of the statutory body member is to be set out by the company's general meeting (or supervisory board, if it is in charge of remuneration of other body members).

While concluding employment contracts with statutory body members used to be a frequent scenario at the Czech market, a concurrent employment contract is, in the case where the activities under the employment contract and the function of the statutory body overlap, no longer valid.

Contract termination

There are no special deviations from the Czech labour law in relation to managers and directors.

The appointment of executives or directors is exercised outside the terms of the employment contract. The dismissal of an executive or director does not lead to termination of employment the contract, which must be terminated for one of the statutory reasons set out in chapter 6.

The employment relationship cannot be based on election or appointment, but only upon contract (with exceptions in 1.2) Labour law defines special directives that regulate the termination of a contract. In limited cases, the employee can be dismissed (entlassen) / recalled (abberufen) from his position with immediate effect but the employment relationship does not come to an end in this case. The contract must subsequently be terminated on a regular basis (see 6).

2. Remuneration

2.1. Minimum wage

Statutory minimum wage
Collective agreements and staff rules

Negotiations regarding remuneration will usually result in a mutual agreement between an employer and an employee. The amount of the minimum wage, which cannot be reduced, is regulated by government decrees and is officially published. According to the Government Decree No. 567/2006 Coll., as amended, the minimum wage in the Czech Republic amounts to CZK 11,000 (approx. € 429) per month, or CZK 66 (approx. € 2.57) per hour.

Guaranteed wage

Please note that pursuant to the Government Decree No. 567/2006 Coll., as amended, the minimum wage in the amount as stated above can be paid only to employees with lowest qualification (e.g. luggage carriers, unqualified workers etc.) The jobs are divided into 8 ranks according to their qualification requirements, responsibility and strenuousness, and the higher the rank, the higher the minimum wage ("guaranteed wage") that is prescribed. Therefore, whereas the guaranteed wage for rank 1 (e.g. luggage carriers, unqualified workers) is CZK 11,000 (approx. EUR 440) per month or CZK 66 (approx. EUR 2.5) per hour, the guaranteed (i.e. in fact minimum) wage for rank 4 (e.g. train drivers, tourist guides) is CZK 14,800 (approx. EUR 590) per month or CZK 88.80 (approx. EUR 3,5) per hour, the guaranteed (i.e. in fact minimum) wage for rank 8 (e.g. managers, scientists) is CZK 22,000 (approx. EUR 880 per month or CZK 132.20 (approx. EUR 5,3) per hour.

Collective agreements

If a collective agreement between an employer and an employee is negotiated, the amount of the floor wage can be raised in accordance with the law. In this case, the raised floor wage that has been determined is the mandatory amount payable by an employer, ignoring the legally determined

floor wage, which varies by the coefficient of expenditure of human labour performed. The contract parties cannot negotiate a lower wage than this.

2.2. Pay increases

Collective agreement

The law does not determine a coefficient for the wage raise. Regular wage raise regulations are included in the collective agreement.

Employment Contract

If there is no collective agreement that regulates wage increases separately, this regulation can only be carried out on the basis of mutual agreement between an employer and an employee.

2.3. Reduction of wages

Mutual agreement

Wages are either agreed directly in the employment contract, in the respective collective agreement, or in another contract signed by parties, or in an internal regulation or in a separate payment decree. An employer cannot unilaterally decrease the wage. Wage reductions are always subject to mutual agreement and an employee may not be forced to accept such agreement.

3. Working time

3.1. Standard working hours and breaks

Daily and weekly standard working hours

A standard working week consists of 40 hours, which amounts to 8 hours per day when distributed evenly over a common working week.

Working hours of employees per week are as follows:

— employees whose daily work is underground on coal, ore and other non-metallic raw materials extraction, or on mine-works construction, as well as of those working in geological exploration sites may not exceed 37.5 hours per week;
— employees who are on a three-shift or continuous pattern of work may not exceed 37.5 hours per week;
— employees who are on a two-shift pattern of work may not exceed 38.75 hours;
— employees who are younger than 18 years of age should work a maximum of 40 hours per week, provided that the working hours per day does not exceed 8 hours.

Lunch break

The minimal rest periods designated by law (lunch and rest breaks) are not included in the working hours and thus are not paid. An employee is granted at least 30 minutes rest period after 6 hours of work. A minor employee (15 – 18 years of age) is granted the same rest period after 4.5 hours of work. Lunch and rest breaks are neither allowed at the beginning nor at the end of a shift.

3.2. Minimum rest periods

Minimum daily rest period

The working hours are to be distributed in such a way that employees have at least 11 hours of rest time between the end of one shift and the beginning of the other in the course of 24 hours. In special cases, this uninterrupted rest time can be shortened to 8 hours (provided that the subsequent rest period is extended by the time for which the preceding rest period was reduced). A minor employee (15-18 years of age) must have at least 12 hours of rest time between the end of one shift and the beginning of the other in the course of 24 hours.

Minimum weekly rest period

The working hours are to be distributed in such a way as to enable the employee to have at least 35 hours of uninterrupted rest time once a week. In case of a minor employee, such periods may not be less than 48 hours. Where operations allow, this weekly uninterrupted rest time should fall on the same day for all employees and in such manner that it includes Sunday (see 3.5 below).

In special cases (e.g. work in agriculture, services to the population), and in the cases of technological processes that cannot be interrupted, the employer may schedule the working hours of employees who are not minor so that a period of uninterrupted rest period per week is at least 24 hours provided that these employees are granted a continuous rest period of at least 70 hours within two weeks.

If agreed upon, minimum uninterrupted period in agriculture may be scheduled differently - 105 hours over 3 weeks period or 210 hours over 6 weeks period in high season.

3.3. Maximum allowed working hours

Weekly maximum

According to the Labour Code the maximum working hours allowed (excluding overtime) per week amount to 40 hours (see exceptions in 3.1 for certain jobs).

Daily maximum

The working hours per day, where scheduled evenly, may not exceed 9 hours. The working hours per day, where scheduled unevenly or in any other way, may not exceed 12 hours.

3.4. Overtime work

Limitation on overtime work

Employers may require employees to work overtime only in special cases, for example, when there is increased industrial demand or where public interest is concerned. The employer may order overtime work of up to 8 hours per week and 150 hours per year. A total scope of overtime work may not exceed 8 hours on average per week calculated over a period of no more than 26 consecutive weeks (52 consecutive weeks when collective agreement allows so), i.e. a maximum of 416 overtime hours. Overtime exceeding 150 hours per year can only be performed with the approval of the employee.

Exceptions

The total amount of permissible overtime work does not include overtime work for which the employee was granted time off (paid release).

Compensation for overtime work

An employee is entitled to be paid his regular wage and a premium at the rate of at least 25% of the employee's average hourly wage for any overtime work hour unless the employee and the employer have agreed that instead of the premium the compensatory time off will be granted for the hours when he/she worked overtime.

In an employment contract, it can be agreed that the remuneration for overtime work in the scope set out by the Labour Code is already included in his salary/wage. The maximum amount of such unpaid overtime is 8 hours per week in the case of managerial employees and 150 hours per year in the case of other employees. The extent of the overtime work included in regular salary must be explicitly stated in the agreement (and this must obey the maximum limits stated in the previous sentence); otherwise the clause is void.

Penalties

The State Labour Inspection Office and Regional Labour Inspectorates control the amount of overtimes and in case of disregard of a standing rule monetary fines amounting up to CZK 2,000,000 can be imposed.

3.5. Working during the weekend and on public holidays

Weekly rest period

Same as 3.2

Shift-work

Same as 3.2

3.6. Premiums for work during public holidays and night work

Work during holidays

Premiums are paid for overtime, work during public holidays, night-work, weekends and work in an aggravated or health-damaging environment. Premiums do sum up if more than one criteria is met at the same time.

For work during holidays an employee is granted either compensatory time off (paid for in the amount of his/her average hour earnings) in the scope of hours for which he/she worked on a public holiday or, instead and upon agreement, the employee can receive a premium at the rate of at least 100% of the employee's average hourly wage for every such hour.

Night work, work during weekends, work in aggravated and health damaging environment

In the case of night-work, work during weekends and work in aggravated and health-damaging environment, an employee is entitled to a premium of at least 10% of the average hour wage in addition to their usual hourly rate of pay.

The regulation above applies to the non-governmental sector. There is slightly different regulation for the governmental sector, which nevertheless respects the minimum requirements stated above.

4. Paid annual leave (holiday)

4.1. Minimum holiday entitlement

Minimum holiday entitlement

The minimum holiday entitlement is 4 weeks, i.e. 20 working days per calendar year (for employees in the non-governmental sector). Employees in the governmental sector are entitled to 5 weeks of holiday.

Business owners

In this case, business owners are defined according to the Commercial Code as businessmen that are running a commercial company (Limited, Joint Stock Company, Limited Partnership, Public Company) or a natural person who follows a trade or is engaged in other entrepreneurial activities.

There is no special regulation for business owners (i.e. the law does not set out any holiday entitlement for them).

Teachers and professors

Holiday for teachers and professors lasts for 8 weeks in one calendar year.

Additional vacations

If an employee works for the same employer for an entire calendar year in certain exceptional conditions, he/she is entitled to a so-called additional leave, of one week in length that is over and above the main holiday entitlement. If such employee works for the same employer for only a certain part of a calendar year, he/she is entitled to one-twelfth of additional leave for each 21 days of work.

The following employees have the right to receive additional leave for:
— working underground;
— extracting mineral mines;
— tunnelling and mine shaft driving or
— working in particularly hard environment (e.g. in contagious/infective environment).

4.2. Forfeiture of the holiday entitlement

Holiday consumption

When planning the employee's holiday, an employer should keep to the vacation schedule approved by the trade union (if any) and thus ensure that the employee uses all of their holiday entitlement, preferably en bloc by the end of the calendar year. The employer should take into account operational conditions and employee's interests in preparing the holiday schedule. If the holiday is granted in parts, one part must be at least 2 weeks in length (unless agreed otherwise).

Transfer to the next year

If an employee does not use the whole vacation (except for the additional leave) by the end of the year, the leave can be carried over to the subsequent year. If the time when leave is to be taken is not specified at the latest by 30 June of the following calendar year by the employer, the employee shall also have the right to specify when the leave is to be taken. The employee shall be obliged to notify the employer in writing of the time for taking leave at least 14 days in advance unless the employee agrees with the employer on a different time for such notification.

Money compensation

An employee should receive a compensatory wage in the amount of his average earnings for the leave that has been used. The employee is entitled to compensation for any unused holiday, but only if he/she is not able to use the holiday due to the termination of their employment. In such a case, the former and the current employer of the employee may also agree on the transfer of the holiday from the former employer to the current employer.

5. Sick pay

Sick pay

An employee is entitled to compensation from their employer in the case of a validated temporary disability (meaning that they are unfit for work (e.g. sickness), for the first 14 calendar days of such disability. However, there is no compensation for the first three days taken off work as a result of the temporary disability. The compensation for the remaining eleven days equates to 60% of the average daily earnings of such employee and is payable entirely from employer's funds. For the purposes of the previous

sentence, the real average daily earnings of the particular employee are subject to be reduced in a way described by the Czech Act No. 626/2006 Coll., Labour Code, and the Act No. 187/2006 Coll., on Sickness Insurance.

If the disability exceeds 14 days, the state compulsory insurance system starts to pay out sick pay for the remaining period of disability in the amount of:
— 60% of reduced average daily earnings per day.

For the purposes of state sick pay, the reduction of daily earnings is more favourable to employees than the reduction for the purposes of sick pay provided by employer during the first 14 days of the incapacity and reads as follows:
— Up to CZK 942 of the daily earnings are reduced to 90%
— From CZK 942 to CZK 1.412 of the daily earnings are reduced to 60%,
— from CZK 1.412 to CZK 2.824 of the daily earnings are reduced to 30%, Any daily earnings exceeding the amount of CZK 2.2824 shall not be included in the calculation. (The said information is valid for 2017 and may be, and most likely will, be different in the following years.

Health examination Reimbursement

The employer is entitled during the first 14 days of the employee's incapacity to check whether the employee complies with the regime prescribed to that employee (usually to rest at home if not hospitalized, with the exception of walks allowed by doctor). The employer is entitled to hire a third party to perform the checks. From the 15th day of incapacity (i.e. when the sick pay starts to be provided by the state), this right passes to the state social administration.

An employer must arrange that an employee Contract undergoes a medical examination prior to the start of the employment (the "entrance examination"). The costs of the entrance examination shall be borne by the employer if an employment contract is concluded with the candidate. If the candidate does not enter into employment relationship, he/she has to bear such costs. The examination must be performed by the Company Practitioner, a doctor appointed by the employer that an employer has concluded written agreement with. In exceptional cases (e.g. some administrative workers), the examination may be performed by the general practitioner of the employee. The general rule of free choice of doctor does not apply here. Upon termination of an employment, an employee must submit to an exit medical examination. The expense of such examination shall be borne by the employer, it only applies to employees employed on the basis of an Employment Contract and must be completed by the Company Practitioner.

6. Termination of Employment

General background

When terminating an Employment Contract, the following conditions have to be observed in particular circumstances:

Mutual consent

— Termination of an Employment Contract based on the agreement between an employer and an employee – no special conditions;

Probation period
Termination by the employer

— Termination of an Employment Contract during a probationary period here the precondition is that at the time of the contract termination an employee is on a probation period and the employer cannot terminate the contract within the first 14 days of temporary disability of employee on probation period;

Termination by the employee

— Termination of an Employment Contract by dismissal on the part of an employer – the precondition here is that an employee can be dismissed only for legally determined reasons and with a notice period of at least 2 months;

Termination with immediate effect

— Termination of an Employment Contract by an employee – can be done for any reason or without stating the reason but the 2 months' notice period applies;

— Termination of an Employment Contract with immediate effect on the part of an employer is possible only if there are legally determined reasons and in the 2 month period from the day an employer has found out about the reasons and at the latest within 1 year of the emergence of such reasons. The employer cannot immediately terminate contract if the employee is pregnant or on maternity/paternity leave.

— Termination of an Employment Contract with immediate effect on the part of an employee is possible only if there are legally determined reasons and in the 2 month period from the day an employee has found out about the reasons and at the latest within 1 year of the emergence of such reasons.

Fixed-term Employment Contracts

— A fixed-term Employment Contract terminates when the specified timeframe agreed in relation to that contract has elapsed.

6.1. Formal requirements to be observed by the employer

Written form required

Termination of Employment Contracts, both from the side of the employer and the employee, has to be in writing and handed to the parties involved. It is recommended to deliver the termination notice personally, as there may be problems with validity of delivery of such notice via post. If these requirements are not fulfilled, the dismissal is considered invalid. In all cases, the trade union must have been consulted about the dismissal in advance.

The dismissal does not require an approval procedure, except in the case of the following:

In some exceptions required approval

When an employer wishes to dismiss or terminate the contract of an employee who is a member of the relevant trade union operating within the employer's company during the member's term of office or for a period of one year afterwards, the employer must ask the trade union for its prior approval to such termination.

Representatives of the trade union

6.2. Notice Period

The statutory notice period is the same for both the employer and the employee and lasts for at least 2 months. For Agreements on Working Activity the notice period is set at 15 days (unless otherwise agreed).

Duration

The notice period starts on the first day of the calendar month following delivery of the notice to the other party and ends upon the expiry of the last day of the relevant calendar month. There are several exceptions stipulated by law. For Agreements on Working Activity, the notice period starts on the day when the notice is delivered to the other party (unless otherwise agreed).

Beginning and ending

6.3. Limited reasons to terminate the employment

Dismissal without any reason is possible during the probation period, both by the employer and the employee. In this case a simple notice (at least 3 days prior to the date of termination) stating the contract termination without detailing the reasons is sufficient.

Probation period

An employee can always terminate his/her contract for any reason and is not required to state the reason.

Termination by the employee

On the other hand, the law states that an employer always has to state the reason for the dismissal.

Employer has to provide a "valid reason" for the termination of employment

Redundancy payment

The following reasons for dismissal may be given:

— company re-organisational reasons: statutory severance pay on dismissal in the amount of (a) one average monthly earning of the employee if the employment lasted less than 1 year, (b) two average monthly earnings of the employee if the employment lasted 1-2 years, (c) three average monthly earnings of the employee if the employment lasted more than 2 years,
  - relocation of a whole company or its part or
  - closure of a whole company or its part or
  - the employee is no longer required due to changes in the company organization (i.e. redundancy of an employee).
— work injury: employee is not allowed to perform his current work due to a work injury, occupational disease or its threat or an employee has been subjected to a maximum permissible level of harmful exposure. There is a statutory severance pay of at least 12 times average monthly earnings in this case.
— personal reasons: no statutory severance pay
  - employee has lost, his capability to perform the current work due to state of his/her health (long term);
  - employee does no longer meet the prerequisites prescribed by statutory provisions for the performance of agreed work or he does not meet requirements for proper performance of such work (if the latter is reflected in unsatisfactory work results the termination is possible only when an employer's prior written demand to meet such requirements has been filed within the last 12 months)
  - reasons on the employee's part that allow the employer to immediately terminate the contract
  - serious breach of statutory duty relating to work or ongoing less serious breach of statutory duty relating to work (a prior written warning during the last 6 months is required).
  - serious breach of some duties relating to sickness regime of an employee during the first 14 days of sick leave.

6.4. General protection against termination of employment

The following provisions of the Labour Code secure the employee from being dismissed:

Explicitly determined reasons

— An employer can dismiss an employee only on the basis of specified reasons;

Consultation with the trade union

— An employer is obliged to negotiate every dismissal in advance with the trade union concerned and in case of a member of the trade union the union´s approval of the dismissal is required;

Opinion of the employee

— An employer is obliged to explain the reason behind the dismissal to the employee and to let him or her express their opinion;

Protection period

— An employer cannot dismiss an employee during a protection period (see below 6.5.);

6.5. Employees with special protection against termination of employment

Prohibition of Redundancy

The following groups of people are protected from dismissal:
- employees that are temporarily disabled and unfit for work (e.g. sickness);
- employees called up for military exercise;
- employees fully released from work to exercise a public office;
- pregnant employees, or employees on maternity/paternity leave, or employees on parental leave;
- employees who work at night and are temporarily unfit for night work.

Exceptions from prohibition

The prohibition to terminate the contract does not apply for above employees if the termination is executed due to:
- relocation of a company or the closure of a company or its part
- grounds on which the employer may terminate the contract immediately, unless it concerns an employee on maternity/paternity leave
- breaches of statutory duty relating to work unless it concerns a pregnant employee, an employee on maternity/paternity leave or an employee on parental leave

Approval required

Dismissal of members of trade unions requires approval of such union (see 6.1).

6.6. Involvement of staff representatives

Consultation with the trade union

If there is any trade union connected to the employer's company, the employer is obliged to negotiate every dismissal of an employee with this union in advance. If these requirements are not fulfilled, the dismissal is still considered to be valid, but the employer may be sanctioned by the Labour Office.

Notification

In the case of a dismissal of a member of the trade union (see 6.1.) when a prior approval of the trade union is required, a dismissal without such approval being obtained is considered to be invalid. The court might rule that such a dismissal is valid if it considers that the employer cannot be justly expected to employ such an employee any further.

6.7. Termination in connection with reduction of salary

Mutual agreement

It should be noted that it is possible to conclude an agreement which makes changes in the working conditions as long as the changes have been mutually agreed between the employer and employee.

The term "dismissal with the option of altered conditions of employment" is not recognised in the legal system of the Czech Republic. The employer can sign a new employment contract with an employee before legally terminating the existing contract.

Social Obligation to offer another job

There is no obligation for an employer to offer an employee that has been dismissed another job, or to help him look for one.

The rights and duties in labour relations may derogate from the Labour Code provided such derogation is not expressly prohibited by the Code or the nature of the Code's provisions does not imply impermissibility to depart therefrom. The regulation of wages and salaries may derogate from statutory rights, although such different regulation may not introduce lower or higher wage or salary than the lowest or highest permissible wage or salary laid down in the Labour Code.

7. Business transfer

Legal basis

The Czech Labour Code does not contain general regulations for the purchase/take over of a firm. It is the Commercial Code that regulates this type of business activity. Notwithstanding the above, certain aspects of transfer of business in relation to its employees are provided for in the Labour Code (Sections 338 to 345).
The transfer of rights and duties arising from labour relations may only occur in the cases specified in the Labour Code or in other statutory provisions.

Automatic transfer of contracts of employment

In the case of a transfer of a business, legal rules state that the rights and obligations underlying the relationship between the employees and the transferring employer are transferred to transferee in their entirety. Therefore, the transfer of a business has no legal consequences for the employee. The former and the future employer have to inform the respective trade union or the works council or staff representative (see 8) about the pending transfer before it actually takes place. Furthermore, the legal, economic and social consequences of the transfer must be discussed, together with the reasons and the likely effect of the transfer on the workforce. In case there are no trade unions, works council or staff representatives, the employer must directly inform all employees.

Specific rights of the employees

The employees who shall be subject of the transfer have the right to be informed and consulted at least 30 days prior to the transfer of the rights and obligations to the other employer, of this fact and in particular of
A. the set or proposed date of the transfer;
B. the reasons for the transfer;
C. the legal, economic and social consequences of the transfer for employees;
D. the prepared measures related to employees.

If an employee gives his/her notice in connection with the transfer, the employment law relationship ends at the latest on the day preceding the day when the transfer enters into effect.

If an employee's notice was given within two months from the effective date of the transfer, or if the employee's employment law relationship was terminated by agreement within the same period, the employee may seek a determination at the court that the employment law relationship was terminated on the grounds of considerable impairment of working conditions in connection with the transfer. In such a case, the employee may be awarded with severance payment in the same amount as in the case of notice due to company reorganization (point 6.3).

8. Industrial relations

8.1. Labour unions and management

According to Czech law, trade unions have rights of co-determination and in addition to that, the employer has a duty to provide information and an obligation to negotiate with the trade unions/work council/staff representative. The employer is obliged to fulfil his duties to all trade union organisations and/or work councils/staff representatives exercising their activities within the company.

The following rights and obligations in particular have to be noted:

Right of co-determination

— Rights of co-determination (i.e. where the approval of the union is necessary) exist in relation to:
  - Decisions on the assignment of funds for social and cultural needs and the use thereof;
  - Notices and immediate termination of the employment contract of official members of a union during his or her office and one year after its termination;
  - Term of holiday;
  - Issue or change of work rules.

Right of consultation

— An obligation to negotiate (i.e. where both parties discuss the problem but the final decision is up to the employer) exists in relation to:
  - The complaint of an employee for enforcement of rights and duties;
  - Transfer of the employee to alternative work (other than agreed on in the employment contract) in case the employee does not agree to such measure and the said transfer exceeds 21 working days in one calendar year;
  - Notice or immediate termination of the work contract;
  - Collective regulation of working hours, overtime work and the

possibility to order work performance on the days of rest and night work with regard to health and safety protection at work;
- Substantial measures concerning occupational health and safety;
- The evaluation of risks, adoption and implementation of measures to reduce their effects, work performance in risk monitored areas and allocation of jobs into categories in accordance with other statutory provisions;
- The organisation of training courses on statutory provisions and other regulations aimed at safeguarding occupational health and safety;
- Determination of a qualified individual to deal with risk prevention in accordance with other statutory provisions;
- Economic situation of the employer;
- Changes in work organisation;
- The system of remuneration and appraisal of employees;
- System of employees´ training and education;
- Measures to create conditions for employment of persons, in particular minor employees, persons taking care of child under 15 years of age, disabled persons, including substantial issues relating to the care of employees, measures aimed at improving occupational hygiene and the working environment and measures concerning social, cultural and physical training needs of employees;
- Other measures relating to a larger number of employees;
- Probable development of the company;
- Envisaged organisational changes within the company, rationalization or organizational measures influencing employment and other measures with impact on employment;
- Measures in connection with collective redundancies;
- The latest number and structure of employees, envisaged employment development in the company;
- Fundamental issues of working conditions and their changes;
- Transfer of business and relating agenda;
- Issues in the scope determined either by an agreement or establishment of a European works council;
- The amount and method of damages awarded to employee who has suffered work injury or occupational disease;
- Wage due date unless specified in collective agreement;

Rights of consultation

— An obligation to inform (i.e. where the employer has to notify the unions in advance) exists in relation to
  - New labour contracts;
  - Collective redundancies (reasons for collective dismissal, number of employees to be made redundant, total number of employees, severance pay etc.);
  - Employees determined to organise providing first aid, calling medical assistance, Firefighters, Police and to organize evacuation of employees;
  - Selection and provision of occupational health care;
  - Determination of a qualified person to deal with risk prevention in accordance with other statutory provisions;
  - Any matter with substantial impact on occupational health and safety;
  - Economic and financial situation of the company;
  - Employer's activities, their probable development, impact on the environment and any related ecological measures;
  - Employer's legal status and any changes to such status;
  - Internal organisational structure and the person authorised to act on behalf of the employer in labour relations;
  - Fundamental issues of working conditions and their changes;
  - Probable development of the company;
  - Envisaged organisational changes within the company, rationalization or organisational measures influencing employment and other measures with impact on employment;
  - The latest number and structure of employees, envisaged employment development in the company;
  - Transfer of business and relating agenda;
  - Occupational health and safety issues;
  - Issues in the scope determined either by an agreement on establishment of a European Works Council;
  - Measures taken to ensure gender equal treatment and non-discrimination;
  - Offer of employment vacancies for indefinite period suitable for current employees on fixed term;
  - Development of salaries, wages, average salaries and the individual positions thereof, including the division into profession groups, if not agreed otherwise.

8.2. Influence of Labour unions

Industrial firms

The unions have powers in relation to decisions made by employers, especially in large organisations or those with a large workforce. Here there is the possibility to enforce the right to conduct the collective negotiations immediately, with the goal of ensuring conditions are advantageous to the employees. Unions can also put pressure on the employer.

Smaller companies

In contrast, the influence of unions in smaller companies is a rarity. Similarly, the influence of staff representatives or works council members on decisions taken by the employer is also very small.

8.3. Creation of a works council or staff representatives mandatory

Existence of an active union organization

If there is an active union organisation, the union statute governs all conditions for establishing union bodies of the respective union organisation, elections taking place in these bodies, membership, term of office, as well as the whole internal structure of the union (according to the Act No. 83/1990 of the Coll. on the association of citizens).

A works council or staff representative for health and safety protection at work may be created even when there is already a union organisation.

Employees council

The works council of employees has at least three but not more than fifteen members. The number of members at this council must be an odd number.

Staff representative

Employees may also designate a so-called representative for health and safety protection at work. A total number of such representatives depends on the number of employees and a risk factor of the types of work performed, but no more than one representative may be appointed per 10 employees.

Elections

The Labour Code governs elections for members of the works council and staff representatives. The term of office for both the works council and staff representatives is three years.

European works council

The Czech Labour Code contains legal regulations for the European Works Council. The European Works Council is established on the basis of an agreement between a special negotiating body representing employees and the relevant central management to ensure right of employees to transnational information. The term of office is 4 years.

8.4. Rights of staff representatives

No right of approval

The right of co-determination with the employer is the exclusive right of the union body. The majority of other consultation and information rights can be exercised interchangeably with any of the employees´ representatives (trade union, works council, staff representative).

Works Council
Right of information

The works council has the following rights:

— The employer must inform the works council especially about the following matters:
  - Collective redundancies (reasons for collective dismissal, number of employees to be made redundant, total number of employees, severance pay etc.);
  - Economic and financial situation of the company;
  - Employer's activities and their probable development and impact on the environment and ecological measures related thereto;
  - Employer's legal status and any changes to such status;
  - Internal organisational structure and the person authorized to act on behalf of the employer in labour relations;
  - Fundamental issues of working conditions and their changes;
  - Probable development of the company;
  - Envisaged organisational changes within the company, rationalisation or organisational measures influencing employment and other measures with impact on employment;
  - The latest number and structure of employees and the envisaged employment development in the company;
  - Transfer of business and relating agenda;
  - Occupational health and safety issues;
  - Issues in the scope determined either by an agreement on establishment of a European works council;
  - Measures taken to ensure gender equal treatment and non-discrimination;
  - Offer of employment vacancies for indefinite period suitable for current employees on fixed term;
  - Occupational health and safety issues.

Right of consultation

— The employer must especially explain to and negotiate the following issues with the works council:
  - Complaint of an employee for enforcement of rights and duties;
  - Measures connected with collective dismissal;
  - Probable development of the company;
  - Envisaged organisational changes within the company, rationalisation or organisational measures influencing employment and other measures with impact on employment;
  - The latest number and structure of employees and the envisaged employment development in the company;
  - Transfer of business and relating agenda;
  - Occupational health and issues;
  - Issues in the scope determined either by an agreement on establishment of a European works council.

Staff representative

The representative for health and safety protection at work is entitled to receive communication and explanation of the following:

— The employer must explain to and negotiate the especially following issues with representative:
  - Complaint of an employee for enforcement of rights and duties;
  - Health and safety protection at work according to the Labour Code;
  - Probable development of the company;
  - Envisaged organisational changes within the company, rationalisation or organisational measures influencing employment and other measures with impact on employment;
  - The latest number and structure of employees, envisaged employment development in the company;
  - Transfer of business and relating agenda;
  - Occupational health and safety issues;
  - Issues in the scope determined either by an agreement on establishment of a European works council.

Right for information

— The employer must inform the staff representative about the following matters:
  - Economic and financial situation of the company;
  - Employer's activities and their probable development and impact on the environment and ecological measures related thereto;
  - Employer's legal status and any changes to such status;
  - Internal organisational structure and the person authorized to act on behalf of the employer in labour relations;
  - Fundamental issues of working conditions and their changes;
  - Probable development of the company;
  - Envisaged organisational changes within the company, rationalisation or organisational measures influencing employment and other

measures with impact on employment;
- The latest number and structure of employees and the envisaged employment development in the company;
- Transfer of business and related agenda;
- Occupational health and safety issues;
- Issues in the scope determined either by an agreement on establishment of a European works council;
- Measures taken to ensure gender equal treatment and non-discrimination;
- Offer of employment vacancies for indefinite period suitable for current employees on fixed term;
- Occupational health and safety issues.

Collective agreements

The relations between the employers and one or more trade unions may be governed by the Collective Agreement to a greater benefit of the staff than the provisions in the Labour Code (or other legal regulations) provide, as long as it is not expressly forbidden to deviate from the provisions of the Code. Similarly, the Collective Agreement cannot limit the employment rights and obligations that have been agreed upon.

Prohibition of discrimination

No member of the employee organisation is protected from dismissal (but there is a trade union approval required for dismissal of a union's member). There is only the provision that the members of the works council, trade union or staff' representatives must not be exposed to any discrimination or penalised due to their role as a member.

8.5. Staff representatives and the right of paid release

The activity connected with the execution of the office of works council member or staff representative should not be conducted during work time unless it is not possible to carry out these activities in free time.

However, the employee is entitled to compensatory time off (paid release) when he exercises the office of a member of a trade union/works council or as a staff representative.

8.6. Staff representatives and material expenses

Rooms and technical support

The employer shall create at their own cost the conditions, which enable the trade union/works council/staff representative the proper exercise of their office. In particular, he has to provide rooms and equipment, and cover both the costs relating to their maintenance and technical operation as well as the costs of required documentation.

Limits of support

Such technical assistance by the employer depends on the size of the company; the employer is obliged to provide the above conditions within the operational possibilities and within an appropriate scope.

8.7. Collective Agreements

One union organization

The right to conclude a collective agreement on behalf of employees pertains only to trade union organisation. A collective agreement may in particular regulate wage and salary rights and other rights in labour relations as well as rights or duties of the parties of such agreement. However, it may not impose duties on individual employees.

Several union organizations

If there is one union organisation operating at the workplace, a collective agreement may be concluded between the employer and the trade union. The stipulations agreed to in the agreement are applicable to all employees irrespective of membership. All unilateral violations of such an agreement have the same consequences in the same way as a breach of contract.

Early retirement

If there are several union organisations at the workplace, the employer must negotiate the conclusion of the collective agreement with all such trade unions. All trade unions act and negotiate the agreement jointly and in mutual consent with legal consequences for all employees, unless agreed otherwise.

9. Employment disputes

Courts

There are no special labour courts.
General courts are competent to deal with all decisions in the context of employment law. However, there is a three-person senate for labour disputes at all general courts comprising of one judge and two associate justices.

Arbitration and mediation

Parties to an employment agreement may voluntarily agree that their dispute will be resolved in a mediation proceedings. Disputes relating to property affairs (such as claiming unpaid salary, restitution of damage etc.) may also be tried before an arbitration court or individual arbitrator if parties agree with it. It is argued that disputes relating to establishment and termination of employment relationship may not be subject to arbitration.

10. State Benefits

General background

There are two systems of state insurance in the Czech Republic – social insurance and public health insurance.

Social insurance comprises of:
— retirement insurance and pensions;
— sickness insurance; and
— government employment policy.

The two systems cover the following:
— retirement, invalidity, etc.;
— social care (family care, the elderly etc.);
— health insurance allowances (sick pay, support during care of a family member, compensation during pregnancy and maternity leave, financial support during maternity leave); and
— support by the state-owned social insurance system (family support, housing benefit, transportation allowance etc.).

10.1. Contributions for social insurance

Social Security and Health Insurance contributions

The employer pays a contribution of 3% as the total salary tax which will be transferred to the state social security and health insurance accounts. In addition, the employer is obliged to deduct from the employee's salary social security and health insurance contributions, each of them amounting to 6,5% of the gross salary.

10.2. Retirement age

Men

The standard retirement age for men is 60 years of age if they were born before 1936. If they were born between 1936 - 1977, the exact retirement age will be set out pursuant to an annex to Act No. 155/1995 Coll. and will amount to 60 – 67 years. If they were born after 1977, the exact retirement age will be set out based on the calculation formula included in the same Act and will exceed 67 years.

Women

The standard retirement age for women. if they were born before 1936, depends on the number of children brought up – 57 years for no children, 56 years for 1 child, 55 years for 2 children, 54 years for 3 or 4 children and 53 years for 5 or more children. If they were born between 1936 - 1977, the exact retirement age will be set out pursuant to an annex to Act No. 155/1995 Coll. and will amount to 60 – 67 years. If they were born after 1977, the exact retirement age will be set out based on the calculation formula included in the same Act and will exceed 67 years.

10.3. Calculation of the pension

The amount of the retirement pension is limited by law and depends on the employee's income level during the decisive period and on the number of years worked. It comprises of a basic pension (9% of the average salary in the Czech Republic) and an individual pension. The amount of the individual pension is in principle specific to the individual and many factors have influence on its determination. The average pension is approximately CZK 10.700,- (approx. EUR 430).

Maximum pension

The maximum pension is unlimited, but if it exceeds CZK 396.000 (app. EUR 15,590) per year the exceeding part of the pension is subject to tax.

10.4. Private Pension Systems

Pension funds

Current laws govern the private retirement insurance via the pension funds. If an employer pays the pension contribution for the employee, up to CZK 24.000,- for each such employee is tax deductible. The only condition is that the employer must stipulate such entitlement in the collective agreement or in the internal regulation.

10.5. Unemployment benefits

Entitlement to unemployment benefits

An employee having lost his or her job and having registered at the relevant Labour Office is entitled to receive unemployment benefits if he or she has been employed for a period of at least 12 months in the last two years before registering as unemployed. The unemployment benefit is paid for 5, 8 or 11 months – depending on the age of the unemployed. The older the unemployed, the longer the period for unemployment benefits. Unemployed persons under 50 years of age are entitled to 5 months of unemployment benefits, persons between 50 to 55 years of age are entitled to 8 months and persons over 55 years of age are entitled to 11 months of unemployment benefits.

Amount of the unemployment benefit

The amount of the unemployment benefit is based on the average earning after tax that the applicant received in his last job, being in the amount of 65% of his or her salary during first two months, 50% for the next two months and 40% for the remaining period. The unemployment benefit cannot exceed 0,58 times the national average earnings for the previous year, or 0,68 times in case of change in qualification. The national average salary after tax is approximately CZK 27.889 (EUR 1,097), thus the maximum unemployment benefit equals approximately CZK 16.175 (EUR 637).

Funding of the unemployment scheme

As of 2009, only the employer pays contributions to the unemployment benefit system.

The employer pays contributions amounting to 1.2 % of the assessment basis (monthly earnings) of his employees. — Employer

The employee pays no contributions. — Employee

Hungary

1. Hiring Employees

1.1. The Employment Contract

Written form required

The main statute governing Hungarian labour law is Act I of 2012 on the Labour Code ("Labour Code") as amended.

An employment relationship is created by entering into an employment contract, which must be concluded in writing between the employer and the employee. However, failure to confirm the contract in writing will only invalidate the contract if the employee raises this as an objection within a period of thirty days from the first day of the commencement of work.

Issues to be specified in the contract

The employment contract must specify at least the following details:
— the names and particulars of those engaged in the employment;
— the employee's basic salary; and
— the employee's position (role).

In addition to the statutory minimum contents of the employment agreement, in practice, it is important to incorporate certain additional terms. It is advisable to incorporate the place of work, which can be determined as one or more places or by way of reference to a bigger geographical area (like Hungary, for example). If there is a fixed place of work provided in the employment agreement, the employer can only transfer the employee to another place of work for a limited amount of time (44 working days) in a calendar year.

Furthermore, for the sake of clarity, it is good practice if the individuals who may instruct and exercise employer's rights (rights granted to the employer by contract, statute or by an internal policy) over the employee are named in the contract. Any action exercising such rights (for example, termination or amendments to the contract, or work appraisal) will be valid only if it is done by a person authorised to exercise employer's rights. Delegating the power to exercise employers rights is possible as well as an ex post approval.

The Labour Code does not require the employee's job description to be included in the employment contract; it is enough to specify the main duties of the employee. Since the employment contract cannot be unilaterally amended, it is preferable not to incorporate the employee's job description into the contract, but to prepare a separate document containing the job descriptions of the jobs of the employees existing at the employer. As a result, the job descriptions of the employees may be amended unilaterally by the employer, acting reasonably. The employment contract should refer to this document, with the relevant part being handed over to the employee simultaneously upon the signing of the contract but no later than 15 days from the commencement of work.

Term of employment

Unless otherwise provided for the contract, the employee is employed for an indefinite period of time. A fixed-term employment contract is legal, but the parties must expressly state in their written contract that their agreement is concluded only for a fixed period of time.

The same parties may establish repeated fixed-terms of employment or extend the fixed-term stipulated in the contract. This extension is only justified if it is in the employer's bona fide business/operational interests and if it is not aimed to impair the employee's rights. Any employment established or extended in violation of this rule shall be considered to be employment for an indefinite period of time with all of its consequences. In practical terms, the employer must have an acceptable economic justification for extending a fixed term contract.

The term of a fixed-term of employment must not exceed five years –- and this includes the cumulative term of numerous fixed-terms of employment when the latter term is established within six months of the termination of the previous fixed-term. The only exception to this five-year rule is that, if the employee is a senior executive (i.e. managing director), the parties may conclude fixed-term employment contracts without restrictions.

When employment is subject to a license or permit, the employment contract may only be concluded if such authorisation has been received from the relevant authority.

Choice of law

The Labour Code applies to all employment where work is carried out on a regular basis within the territory of Hungary and also to those cases when an employee of a Hungarian employer is assigned to temporarily work abroad ("Hungarian Employment").

In Hungary, the Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual

obligations (Rome I) are directly applicable and therefore the parties can choose the law applicable to their contract. However, this choice cannot lead to a result that the employee is deprived from the mandatory protection provided by Hungarian law, if, in absence of the choice, Hungarian law would govern the relationship.

Mandatory rules of Domestic Labour Law

By virtue of these rules, if an employee habitually carries out work in Hungary (or, in absence of a habitual place of work, the employer is located in Hungary) due to the contract's provisions, certain mandatory rules of the Labour Code must be applied to the contract.

Limits on the freedom to contract

In case of Hungarian Employment, the provisions of the Labour Code are binding. An agreement between the parties or a collective bargaining agreement may only deviate from these provisions but only where such deviation provides more favourable terms for the employee. In some parts, the Labour Code expressively allows a deviation in both ways – in this case the, parties are free to agree on the terms they want within the limits provided in the Labour Code. This limit, in general does not apply to a collective bargaining agreement or a contract concluded with an employee who is classified as a senior executive (see below).

Employee of a foreign employer

An employee working for a foreign employer in Hungary through assignment, temporary transfer or temporary employment is not regarded as a Hungarian employee. However, the mandatory provisions of the Labour Code will apply in relation to such foreign employees, unless more favourable rules are applicable to the foreign employee by virtue of the law applicable to the employment contract. These mandatory rules are:

— the maximum working hours and minimum breaks;
— the minimum period of paid holidays;
— the minimum wage;
— conditions of temporary agency work;
— conditions for safety at work;
— employment and working conditions for young employees - or women who are pregnant or who have a small child; and
— rules regarding the equal treatment.

Jurisdiction clause

In line with the the Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels I) Hungarian courts shall have jurisdiction in employment-related lawsuits filed by employees against employers if (i) the habitual place of work is or was in Hungary; and/or (ii) the place where work was actually performed is in Hungary, provided that the habitual place of work neither is or nor was in the same country. These rules do not preclude the possibility of initiating an employment-

related lawsuit against the employer in the country of its domicile – the above mentioned rules just create a concurring and not an exclusive jurisdiction.

1.2. Contracts for services

In Hungarian law, besides an employment contract, a service agreement under Act V of 2013 on the Civil Code ("Civil Code") may exist as a form to carry out work for and on behalf of a third party.

Agency agreement

An agency agreement (or services agreement) as set out in the Civil Code provides a wide discretion to the parties, since they may vary the conditions provided for in the Civil Code (as opposed to employment law, where the freedom of choice is limited).

The agent is obliged to carry out the matters entrusted to him, in accordance with the principal's instructions and in a manner representing the principal's interests.

Compensation

Principals usually pay a service fee. Agents are entitled to demand remuneration even if their actions did not bring about the desired results. However, a principal is entitled to reduce the remuneration or refuse to pay it if he is able to prove the failure to gain the results was partially or completely due to the fault of the agent. Fees become payable upon completion of the contract, unless the parties agree otherwise.

Costs that arise in connection with the handling of a matter shall be borne by the principal and the agent is not obliged to pay these on behalf of the principal until the principal has provided the agent with the money to do so.

Personal service

An agent is entitled to employ other persons to assist in the performance of the agent's function if the principal has signified agreement thereto or if it is implied by the nature of the agency (this is not permitted under a contract of employment).

Duty to cooperate

The Civil Code imposes a duty on both parties to notify the other of certain situations arising and to cooperate in good faith during the services.

Termination of contract

A contract may be terminated in various situations, for instance: if the agency has been fulfilled; if either party cancels the contract by notice; if either party dies or is dissolved without legal succession; if the principal becomes partially or fully incompetent or if the agent becomes incompetent; or if the objective of the agency relationship becomes moot.

If the contract is cancelled by the agent, the principal dies or loses legal capacity to contract, the agent must take any urgent action required to protect the interests of the principal if the principal or its legal successor is unable to tend to the business at hand. A principal is entitled to rescind the agency agreement with immediate effect at any time, but is however, obliged to uphold any obligations already entered into by the agent. An agent is also entitled to rescind the agency agreement at any time but must give a period of notice sufficient to allow the principal to take over the running of the matter. If the principal is guilty of a serious breach of the contract, the agent is entitled to rescind the agreement with immediate effect. If the agent cancels the agreement without the principal being guilty of a serious breach of the contract, any losses incurred by the principal must be indemnified by the agent. Any limitation or exclusion of the right of cancellation is null and void; however, with regard to long-term or open-ended contracts, the parties are entitled to agree limitations on the right of cancellation.

Characteristics of the employment relationship

An employment relationship is distinguished from an agency relationship by the presence of the following characteristics:

— systematic and regular work and the obligation to be available to carry out the instructions of the employer;
— the work is performed at the employer's place, in the time determined by the employer and by using the employer's tools;
— the employer has an extensive right to give detailed instructions (i.e. a lack of independence of the employee);
— the extent of control and supervision over the employee;
— the employee has to perform without a right to delegate (engage subcontractors); and
— the nature of the work is typical of an employment relationship.

Relevant content

If the above characteristics typify the relationship, the provisions of the Labour Code govern the relationship accordingly. Considering the fact that all agreements have to be evaluated and qualified according to their content and not their appearance, the courts, the labour authorities (the Labour Inspectorate) and the tax authority (NAV) are entitled to re-classify a service agreement as an employment contract.

In the course of a potential review, the authority scrutinises the contents of the various contracts concluded with employees and if they find, that in reality, the legal relationship concluded between the parties is a working relationship, they will qualify it as such - this is often referred to as "reclassification".

As a legal consequence of such a reclassification, the relevant authority can order the employer to pay all the social security contributions, employer's contributions and similar public duties that would have been paid had the relationship been treated as an employment relationship from the beginning. In addition, the relevant authority might impose penalty payments for non-compliance or delay. Based on a reclassified contract the agent will have the same rights as an employee.

Reclassification of „hidden employment contracts"

1.3. Employment of foreigners

The employment of foreign citizens is generally subject to conditions: in Hungary usually both a work permit and a residence permit or a special visa is required for foreigners in order to comply with employment legislation.

Work and residence permit

A work permit is not required for – amongst others – the chief executives and supervisory board members of business associations with majority foreign ownership.

Chief executives
supervisory board members

Work permits are issued without application and investigation into the demand for an employment provided the following conditions are satisfied: the business association in which the employees will be employed is majority foreign-owned; and the number of foreign nationals employed does not exceed 5 % of labour force of the business association registered on 31 December of the previous calendar year.

Issue of a work permit

The same applies to – amongst others – "employment of a foreign national in a key position." An employee in a key position is a natural person in the employment of a foreign-controlled company established in Hungary, who:

Foreign key personnel

— directs or supervises the company as a whole, or one or more of its organisational units which are under the control or supervision of the owner or the central management; or
— possesses a high level of knowledge or special education necessary for the job, or otherwise holds such unique knowledge which is essential for the activities, research base, application of technology and administration of the organisation.

Foreign citizens can work in the territory of Hungary, if they possess a so-called "D" visa or a residence permit. This rule is applicable irrespective of whether the employee has already a work permit or is exempted from acquiring one.

Visa and residence permit

There are two different types of "D" visa depending on whether the obligation to applicant will be self-employed or employed by a third party. The authorities (an embassy or a consulate) have sixty (60) days for making a

decision to grant a visa or to refuse the application. The visa can only be issued outside of Hungary, therefore the employee must obtain it before actually coming to Hungary.

At latest fifteen (15) days before the expiration of the visa, the employee may apply for a residence permit from the Ministry of Home Affairs. This permit, in contrast to the visa, can be issued only in Hungary and it allows its holder to carry out work according to the immigration regulations.

No need for Visa or Work Permit for EU citizens

Due to the accession of Hungary to the European Union, EU citizens do not have to obtain a visa, since all EU citizens enjoy the right to move freely within territory of the European Union. EU citizens, if they want to stay in Hungary for more than 90 days have to obtain a registration certificate. The conditions of this certificate are relatively easy to satisfy – if the person in question has a valid employment contract, the authorities have to issue the certificate, provided that the person in question does not pose a threat to the national security of Hungary. There is no need to obtain a work permit for an EU citizen in order to enter into a contract of employment in Hungary.

1.4. Special rules for senior executives

Special regulations

Under Hungarian law there are special regulations covering executive-level employees. These cover all executive employees who are classified as such by the Labour Code, and those who are classified as such according to their employment contract.

Statutory and designated senior executives

The manager of the work organisation and the employees under his/her direct supervision – who are entitled to at least partially substitute for the senior executive – are considered to be statutory senior executives. Also, the parties can agree in a contract of employment that an employee is designated as a senior executive, provided that the level of salary reaches or exceeds a sum equivalent to seven times of the then-current minimum wage (In 2018, this means a monthly base salary of HUF 966,000 gross per month – approx. EUR 3,096). The special rules provided below are the same for both classes of executives.

The general rules outlined above apply to senior executives subject to the following differences:

— collective agreements do not apply to the senior executive;
— the parties are free do deviate from the rules of the Labour Code in their contract of employment regarding the executive's working conditions;
— the employer is not obliged to provide a reason for the ordinary termination of the senior executive's employment;
— the limitation against terminating the employment during sick leave do not apply;

— the right of termination with notice with immediate effect of a senior executive's employment contract can be exercised within the normal periods (see point 6.2.), but not later than 3 years (rather than 1 year) after the occurrence of the reason (or in the case of a crime, until the expiry of the statute of limitation);
— the senior executive determines his/her working hours at his/her own discretion subject to the terms of the employment contract;
— the senior executive is not entitled to overtime payment;
— the senior executive has unlimited liability for damages resulting from negligence;
— if the senior executive is dismissed during liquidation or insolvent winding up proceedings of the employer, then the rules relating to redundancy payments are applied in such a way that the maximum amount payable to the senior executive at the time of termination is six months' absence fee; the rest is payable only upon conclusion of the liquidation or insolvent winding up proceedings.

Restraints on Competition

In addition, the Labour Code imposes the following special restrictions on senior executives (the "Non-Competition Rules"). The senior executive:
— cannot acquire an equity interest in any company which carries out activities identical or similar to the employer or which has regular business dealings with the employer (subject to exceptions relating to public companies by shares);
— is prohibited from concluding transactions in his own name which compete with the employer;
— must notify the employer if a relative of his has acquired a share in a company which carries out an activity identical or similar to the employer or which has regular business dealings with the employer or if such relative has become an executive of such other undertaking.

2. Remuneration

2.1. Minimum wage

Determination by the government in cooperation with the National Economic and Social Council

The mandatory minimum wage is determined by the government in cooperation with the National Economic and Social Council each year. The mandatory minimum wage for 2018 is HUF 138,000 gross (app. EUR 442) for employees employed full time, and it is HUF 180,500 (app. EUR 578) for employees employed full time in positions requiring a secondary school diploma or an advanced vocational training or college qualification.

Special cases

An employer is not allowed to pay less than this mandatory minimum wage. The normative performance requirement for full-time employees shall be

established so that the wages payable upon the fulfillment of such performance requirements shall amount to at least the mandatory minimum wage.

Collective bargaining agreements

Minimum wages agreed in collective bargaining agreements may not be reduced in an individual employment contract.

2.2. Pay increases

(Sectoral) Collective agreement

The salary is amended automatically in respect of the mandatory minimum wage. Sectorial collective agreements regulate the proceedings in relation to salary raises. Collective agreements applicable to a single employer also contain provisions about the duties of the parties concerning such negotiations.

Employment Contract

Salaries are usually increased by an amendment to the employment contract as agreed by both sides. Individual contracts normally only provide for a (non-binding) possibility of a regular salary revision.

2.3. Reduction of wages

A permanent salary decrease is only legally possible by amending the contract of employment by the two parties.

3. Working time

3.1. Standard working hours and breaks

Daily and weekly standard working hours

The working hours of full-time employment shall be 8 hours a day.

Exceptions

The working time of full-time employment may be increased to not more than 12 hours daily for employees:

— working in stand-by duty (work of an on-call nature- means part-time work or work which does not require permanent attendance at a job, work of such minor involvement which enables the employee to partially or wholly relax, e.g. doctors) or
— who are relatives of the employer or its owner.

Lunch break

If the scheduled daily working time exceeds 6 hours the employee shall be entitled to a minimum 20-minute break from work. Furthermore, if the scheduled daily working time exceeds 9 hours the employee shall be entitled to an additional minimum of 25-minute break from work. The parties may increase the length of the break in their contract of employment or in a collective bargaining agreement, up to 60 minutes.

3.2. Minimum rest periods

Minimum daily rest period

A period of at least 11 hours should be provided to employees between leaving work and starting again on the following day. However, a period of at least 8 hours rest should be provided for employees:

— whose working time consists of more than one shift in the same day (split working time);
— working pursuant to a continuous work order;
— working in several shifts; or
— doing seasonal work.

Minimum weekly rest period

All employees are entitled to two days per week as a weekly rest period, one of which must be a Sunday. Instead of two rest days per week, employers may give the employees an uninterrupted rest period of at least 48 hours, which has to include a full calendar day.

Scheduling of the rest period

The Labour Code provides that in case of unequal worktime – with the exception of those working pursuant to a continuous work order; working in several shifts, or doing seasonal work – at least one day for rest should be given to the employee after 6 consecutive days of work.

3.3. Maximum allowed working hours

Daily limit on working hours

The maximum working time per day cannot exceed 12 hours, and, in case of employees undertaking work which requires them to be on call or in the case of employees, who are relatives of the employer or its owner, 24 hours. However, this latter case requires the agreement of the employee and employer.

Weekly limit on working hours

The weekly working hours cannot exceed 48 hours including overtime, and, in case of employees undertaking work which requires them to be on call, or in the case of employees, who are relatives of the employer or its owner, 72 hours. The latter case requires the agreement of the parties here as well.

3.4. Overtime

Annual limit on overtime work

Notwithstanding the restrictions provided above and in the case of full time employment, the maximum limit on overtime is 250 hours per calendar year. This can be increased to 300 hours if stipulated in a collective bargaining agreement.

Prohibition of overtime work

No overtime can be required from:

— a woman from the commencement of her pregnancy until her child is three years old;
— a male employee bringing up his child alone until his child is three years old; and
— an employee if the work places his/her health at risk.

An employee bringing up his/her child alone may only be required to perform overtime work, where such employee consents or agrees to do so, during the period from when his/her child is three years old until his/her child reaches the age of four.

Compensation for overtime work

In general, employees are entitled to a 50% wage allowance for work performed in excess of the daily working time (100%, if the work is performed on a rest day). An agreement between the parties may stipulate the provision of time off in lieu of a wage allowance (together with a 50% wage supplement in case of a rest day). The employees who may decide upon their own working hours at their discretion (this is referred to as "flexible working schedule" under the Labour Code) are not entitled to receive overtime pay. Furthermore, individuals who are classifed as "senior executives" do not need to be paid for overtime work as they work under a flexible working schedule by virtue of the Labour Code.

Fixed allowance for all overtime work

It is permitted to state in the employment agreement that the employee receives a fixed, lump sum instead of the wage allowance. In this case, the employee can only demand the same hourly payment for overtime as in case of his/her normal working hours.

Penalties

If the employer does not comply with the maximum working hour requirements, the labour authorities (Labour Inspectorate) may impose sanctions on the employer, which can include an administrative fine.

3.5. Working during the weekend and on public holidays

Sundays are work-free days

There is no such category like "week-end work" in Hungarian labour law. Accordingly, employees are entitled to two days of rest a week and one of the days of rest must fall on a Sunday. Therefore, working on a Sunday is subject to certain restrictions and only the following categories of employees may be required to work on Sundays in their regular working hours:

Exceptions

- employees of employers operating on Sundays due to their nature of work or in case the position of the employee requires that he/she works on Sundays;
- employees who work pursuant to a continuous work order;
- employees who perform seasonal work;
- employees whose scope of work is of an on-call nature;
- employees who are employed in two or more shifts; or
- employees who work abroad;
- part time workers working only on Saturdays and Sundays;
- employees working in connection with the provision of basic public services or cross-border services (like a shared service centre), where it is necessary on that day stemming from the nature of the service;

— employees engaged in commercial activities covered by the Hungarian Trade Act, and providers of services related to commercial activities and providers of tourism services.

If an employee whose scope of work is of an on-call nature works on a Sunday, such employee may not be required to work on the preceding Saturday in regular working hours.

Working on public holidays

The employees may be required to work in normal working hours on a public holiday:
— by employers operating on public holidays days due to the nature of their business or in case the position of the employee requires that he/she work on a public holiday;
— if the employees work pursuant to a non-stop work order;
— if the employees do seasonal work;
— if the employees work in basic public services or cross-border services, where work is necessary on that day stemming from the nature of the service;
— if the employees work is performed abroad.

On public holidays overtime work can only be required:
— from employees who can work on such days in normal working hours;
— in order to prevent accidents, in case of accidents or catastrophes or in order to prevent direct or serious damage, threatening life, health or physical safety.

Non-stop work

Work may be organised in continuous shifts (non-stop work order):
— if the employer's operation is suspended for less then 6 hours a day or for technological reasons; and
  • the employer provides basic public services; or
  • if economic or feasible operation cannot be ensured otherwise for objective and technical reasons; or
— if continous work is justified by the nature of work itself.

Shared Service Center exception

Since January 2009, employees serving foreign clients via IT infrastructure (typically in SSC's) or posted abroad on days not qualifying as public holidays in the recipient country, may be instructed to work on Hungarian public holidays provided that the relevant service shall be provided on the given day.

Shift work
Additional vacations

The Labour Code qualifies the operation as "shift work" if the employer's operation reaches 80 hours a week. In addition of the wage allowances mentioned above, if the employee's scheduled daily working time changes regularly, the employee is entitled to a shift supplement of 30% for working from 6pm-6 am. Under the Labour Code, the schedule changes regularly if

in a given month, the employee is assigned to a different schedule at least one-third of his/her working days and there is a 4 hour difference between the start of the different shifts.

3.6. Premiums for work during public holidays and night work

Night work

In case the employees work during the night (between 10 pm and 6 am) for more than an hour, the employee is entitled to a 15% wage allowance.

Public holidays

An employee who has to work during a public holiday has the right to receive a 100% wage allowance in addition to his/her basic salary for that day.

4. Paid annual leave (holiday)

4.1. Minimum holiday entitlement

Minimum holiday entitlement

The basic holiday entitlement is 20 working days. The holiday entitlement of employees is increased with additional days depending on the age (and not the seniority!) of the employee with up to 10 days. Employees shall be entitled to receive the extra annual leave in the year when they reach the specified age:

From the age of 25:	1 working days
from the age of 28:	2 working days
from the age of 31:	3 working days
from the age of 33:	4 working days
from the age of 35:	5 working days
from the age of 37:	6 working days
from the age of 39:	7 working days
from the age of 41:	8 working days
from the age of 43:	9 working days
from the age of 45:	10 working days

Additional leave entitlement

The employee is also entitled to extra leave in special events, e.g. during pregnancy or when raising a child.

In some cases, the employee shall also be entitled to vacation time for the period of time during which the employment relationship is suspended, for example for the duration of time spent off work due to illness, for the duration of maternity leave or for the duration of leave without pay for less than 30 days.

An employee, whose employment relationship commenced during the year, is entitled to receive annual leave on a pro rata basis.

4.2. Scheduling of the annual leave

Scheduling of the leave

An employee's annual leave entitlement can be used upon the permission of the employer, however, 7 days has to be allocated in accordance with the request of the employee. Unless the parties agree otherwise in their contract of employment, the employer must allocate the leave in a way to provide a continous 14 days leave in a calendar year.

Vacation time will generally be taken in the year in which it is due. However, if the employee's employment commenced on 1 October or later the employer may allocate vacation time until 31 March of the following year. It is also possible to agree in a contract of employment to permit the scheduling of the additional holidays depending on the age of the employee up and until the end of the following calendar year.

Compensation

Upon the termination of the employment relationship, the employee must be paid financial compensation for any unused and accrued annual leave. It is not permitted to pay compensation in lieu of unused annaul leave under any other circumstances.

If more vacation time has been taken up to the date of termination of employment relationship than should have been taken for the period worked, employees do not have to reimburse the employer for the wages received in excess of their actual leave entitlement.

Penalties

If the employer fails to allocate the employee's annual leave entitlement, it may be fined by the National Labour Inspectorate. The limitation period for claims related to vacation time or their financial compensation is three years following the end of the employment relationship.

5. Sick pay

Sick pay

Employers are obliged to pay to the employees 70% of the absence pay (an amount calculated on the basis of the basic salary and regular allowances) during the first 15 days of sick leave per annum. After 15 days sick leave entitlement is exhausted, sick pay is paid by the social security system, but only for a period of up to 1 year. After this date, invalidity benefits may be granted.

Health examination

The incapacity to work has to be certified by a physician, even in the case of one day's leave.The only medical examination that an employee is obliged to take is one which assesses whether he/she is fit enough to carry out the job.

Employers must provide health examination to the employees working during the night. If the result of this examination shows that night work may be detrimental to the health of an employee or that an illness that an employee already has is directly related to night work, such an employee must be transferred to day work.

6. Termination of Employment

General background

As a general rule, an employment relationship may only be terminated under the circumstances and in such manner as provided for in the Labour Code. The relationship is terminated by virtue of the Labour Code upon the employee's death, upon the dissolution of the employer without legal successor or upon the expiration of the fixed term. Therefore it is not possible to provide for situations when the employee will automatically be dismissed in the employment contract.

Termination with immediate effect during the trial period

The employment contract may be terminated with immediate effect during the trial period, either by the employee or by the employer. In this case, there is no need of giving reasons at all.

Mutual consent (mutually agreed separation)

Any employment may be terminated by an agreement based on the mutual consent of the employer and the employee, i.e. by entering into a contract in relation to a mutually agreed separation.

Different treatment of contracts

Employment contracts for indefinite and fixed terms are treated differently.

Contracts for an indefinite term

An employment contract for an indefinite term may be terminated by giving a regular notice or notice with immediate effect. The notice must be in writing.

Dismissal

The employer must provide a cause justifying the dismissal by a regular notice unless

— the employee is an executive employee (the executive of the employer or its deputy or such right is prescribed by the employment agreement); or
— has reached retirement age or is deemed to be retired in accordance with the rules of the Labour Code.

If the employer does have to justify a termination of an employment contract and it terminates it without lawful reasons, it will be considered as an unlawful termination and the employer will have to pay damages.

Temporary employment contracts

In the case of a termination notice, the grounds on which a temporary (fixed term) contract of employment can be terminated is more limited compared to an employee with a permanent contract and both parties have to provide justification.

A fixed-term employment contract may be terminated by the employer with immediate effect at its convenience, but the employee must be paid an amount equal to 12 months' absence fee or, if the outstanding term of the employment is less than 12 months, then for such outstanding period.

6.1. Formal requirements to be observed by the employer

Written form and information regarding legal remedies required

An employment contract for an indefinite term may be terminated by providing a regular notice. The notice letter must be put in writing and must provide the employee with information regarding the manner and deadline by which he/she can seek a legal remedy against unlawful termination (a statement of claim concerning unfair dismissal must be filed within 30 days with the relevant employment tribunal).

Any employment contract can be terminated in writing with immediate effect if the other party acts in a manner which wilfully or gross negligently breaches his/her main employment obligations, or otherwise demonstrates behaviour which makes the retention of the employment impossible. This summary notice filed by the employer also has to contain information regarding the possibility to seek remedy before a court.

No required approval by a governmental body

It is not needed for the dismissal to be approved by a governmental body.

Consent of the trade union body

The dismissal of an employee holding a position within a trade union by ordinary notice, or the transfer of such official to another working place, requires the consent of the trade union body. The number of protected trade union officials depend on the number of employees at the employer.

Consent of the works council

The dismissal of the chairman of the works council, or the transfer of the chairman official to another working place, requires the consent of the works council.

6.2. Period of notice

Regular notice

The period of notice must be at least thirty (30) days, subject to longer periods stipulated in the contract of employment, however, the lenght of the contractual notice cannot exceed 6 months, unless the employee is a senior executive.

In case of a termination with regular notice by the employer the thirty (30) days notice period may be prolonged depending on the duration of employment by the employer in question. It will be extended by five (5) days after three (3) years in service, fifteen (15) days after five (5) years, twenty (20) days after eight (8) years, twenty five (25) days after ten (10) years, thirty (30) days after fifteen (15) years, forty (40) days after eighteen (18) years and sixty (60) days after twenty (20) years of service.

If an employee is dismissed by regular notice, the employee must be exempted from performing work for at least half of the notice period ("Garden Leave").

Summary notice

The right to terminate with notice with immediate effect (summary dismissal) must be exercised within 15 days of the day on which the employer becomes aware of the reason for the termination and within one year of the actual occurrence of such reason. If a crime was committed by the employee, the above date coincides with the expiry of the statute of limitation concerning such crime. If the employment rights over the employee are exercised by a body (e.g. the Board of Directors or a Supervisory Board), then the 15-day deadline starts running on the date on which such body is expressly informed of the reason for the termination.

An employee may only terminate his/her employment contract with notice with immediate effect if the employer commits a fundamental breach of the employment contract, such as not paying the salary or engaging in discrimination. If an employee terminates the contract by notice with immediate effect, the employee will have to justify the extraordinary termination, and he/she will have the burden of proof that the reasons for the notice with immediate effect were real and valid.

6.3. Limited reasons to terminate the employment

The reason for the dismissal by notice for a permanent employee must relate to the employee's inability to carry out his/her job (personal reasons) or in relation to the behaviour of the employee concerning the employment or the employer's operation (operational reasons).

— Operational reasons:
  - reorganisation
  - restructuring
  - reduction of headcount

Operational reasons

— Personal reasons:
  - disciplinary issues
  - bad workmanship
  - breach of policies

Personal reasons

— An employment relationship for a fixed term may only be terminated with notice by the employer during liquidation or bankruptcy proceedings; a reason related to the employee's abilities to perform the role or if any other reason (unavoidable external cause), which makes the continuation of the employment relationship impossible. The grounds for termination are therefore much more limited in case of a fixed-term employment contract.

Fixed-term employment - different rules apply

6.4. Severance payment

Employees who are dismissed by way of notice after service of more than 3 years, must be paid a one month's absence fee as severance pay. The severance payment increases according to the number of years in employment, up to a maximum of 6 month's absence fee after 25 years of work. However, severance payment is only due if the reason for the termination is related to operational grounds or due to medical reasons. Therefore, in case of a dismissal for non-performance or for a disciplinary reason, the employee is not entitled to receive a severance payment.

6.5. Mass redundancy

Mass Redundancy

The dismissal of a certain number of employees due to a change in the circumstances at the employer's operation is subject to special rules. The number of dismissed employees which trigger the application of such rules for group dismissals are:

— for an employer with between 21 and 99 employees, the dismissal of at least 10 employees;
— for an employer with between 100 and 299 employees, the dismissal of at least 10 per cent of the employees; and
— for an employer with at least 300 employees, the dismisal of at least 30 employees.

This is subject to the provison that the employer terminates the employment contracts of such numbers of employees within 30 days. All methods of termination initiated by the employer, including termination by compromise agreement, are within the scope of mass redundancy.

It should be noted that if these thresholds are reached at individual sites rather than across the employer's entire operation, this will also trigger a mass redundancy.

Consultation with the works' council

Before making the decision relating to the mass redundancy, the employer must initiate consultation with the works' council. The consultation obligation of the employer subsists for at least 15 days. The consultation must cover the principles of the group dismissal, any methods which could be employed to prevent the dismissal and any means of mitigating the consequences and reducing the number of employees affected.

At least seven days before holding the consultation the employer must inform the works' council in writing of, amongst others:

- the reasons for the planned group dismissal;
- the number of employees affected, broken down according to their position; and
- the average number of employees the employer has had in its employment over the past six months;
- the duration and step-plan of the redundancy;
- the aspects of selection;
- the conditions and extent of remuneration concerning the termination of employment (which deviates from the remuneration prescribed by employment rules).

Written information

If the employer and the workers' council conclude an agreement in the course of the consultation such agreement must be evidenced in writing and must be notified to the relevant Labour Centre. If the employer and the workers' council fail to conclude an agreement within the prescribed period, the employer may continue with the mass redundancy.

Information of the Labour authorities

Once the employer has made its decision relating to the group dismissal, it must, at least 30 days prior to the handover of the notice letter of the employees affected by the group dismissal, inform:

- the workers' council;
- the relevant employees affected by the process; and
- the Labour Authorities.

Breach of the formal requirements

The termination is considered to be unfair if the employer does not comply with these notification rules.

6.6. Employees with special protection against termination of employment

Prohibition of Redundancy

Notwithstanding the provisions mentioned in 6.1. and 8.5., it is unlawful for any employer to dismiss an employee on ordinary notice during and for a period after the following:

— pregnancy;
— maternity leave;
— unpaid childcare leave until the child reaches the age of 3;
— during voluntary reserve military service;
— fertility treatment, but the protection only applies for 6 months from the commencement of the treatment.

Notice period - Limited protection

In case of:

— incapacity due to sickness (not to exceed one year following expiration of the sick leave);
— sick leave taken for the purpose of caring a sick child;
— unpaid leave for the purpose of nursing a relative at home

a limited protection applies, as the notice period commences only after the end of the relevant period provided above, but it is possible to hand over the notice letter itself.

Protection due to age or parenthood

On the other hand, the employment of an individual who will reach his/her official retirement age within 5 years can only be terminated in an especially justified case. This means that in case of a redundancy, the employer has to offer an alternative position, if any; in case of inadequate performance, the employee can only be dismissed for a serious misconduct. The same protection applies for a young mother with a child under the age of 3 or a father who is a single parent with a child under the age of 3.

6.7. Reassignment

Temporary reassignment of personnel

It is possible to require the employee to temporarily carry out certain duties that do not form part of his/her original scope of work. It is also possible to post the employee to a different place of work or to order the employee to go on a secondment. However, this requirement must not be prejudicial to the employee and must not be for a period of more than 44 working days in a given calendar year.

6.8. Unfair termination

Unfair termination by the employer

In case the employee is successful in claiming unfair termination, the employer is under an obligation to pay compensation for lost earnings. The amount of damages is capped by the Labour Code at 12 months of absence pay. If the contract is terminated for performance reasons by notice, the

employee could also claim severance payment from the employer.

The employee may claim additional damages (like non-pecunary damages) but in this case he/she has to prove the damages during the course of the litigation.

Reinstatement

The employee may claim reinstatement, but this is permitted only in cases like discrimination or if the employer terminated an employee protected from dismissal.

Unfair termination by the employee

If the employee terminates his/her contract in breach of the rules of the Labour Code, the employee has to pay a compensation to the employer equal to the employee's absence pay due to the notice period for regular notice. In case the damages suffered by the employer are higher, it is possible to claim damages from the employee before a court.

7. Business transfer

EU Directive 2001/23

The Directive of the Council of the European Communities 2001/23/EC of 12 March 2001 on the safeguarding of employees' rights in the event of a transfer of undertakings, business or parts of an undertaking or business was implemented into Hungarian labour law.

"Transfer" for labour law purposes means, broadly, a transfer of an undertaking or a business, together with its employees. The main provisions in respect of legal succession include the following:

The Labour Code provides that the obligation of continuing to employ employees is one of the legal consequences of and not a condition for legal succession.

Automatic transfer of contracts of employment

Transfer means the transfer of the employer's separate and organised group of material and non-material resources (e.g. a business or part of a business) under an agreement.

Upon the Transfer, the rights and obligations arising from the employment pass from the transferor to the transferee. The transferor is obliged to inform the transferee about these rights and obligations.

Transfer with the same terms and conditions

The employees' employment is deemed to be continuous, in particular with regard to the length of the notice period and the the amount of severance payment to which they are entitled.

Information and consultation

If there is no works council operating at the transferor the employees must be informed about the date or planned date of the Transfer, the reason for the Transfer and its legal, economic and social consequences, and planned measures in relation to affected employees at least 15 days prior to the Transfer.

If the former employer had a collective bargaining agreement, the transferee is bound by working conditions as prescribed in the collective bargaining agreement. This obligation applies however, for a period of 1 year following the effective date of the Transfer.

8. Industrial relations

8.1. Trade unions and management

Right of information

Trade unions have the right to certain information (e.g. request information on any issues having an impact on the economic and social interest of the employees in connection with their employment), a right to articulate their opinions.

Prior consent

The dismissal of an employee appointed as protected holding a position within a trade union by ordinary notice, or the employment of the employee under conditions differring from his/her employment agreement requires the consent of the trade union.

8.2. Influence of Labour unions

Consultation forums

Consultation forums also exist on a regional and sectorial basis.

Traditionally trade unions are strong in the sectors of production and energy, their influence is much less in the finance and services sector.

8.3. Creation of a works council or staff representatives

Works' council

Under the Labour Code a works' council must be elected at the place of business of all and at all employers' independent divisions which have more than 50 employees.

Workers' representative

If the number of employees exceeds 15, then a staff representative must be elected. However, this rule essentially grants a right to employees to form such works councils and an obligation upon the employer to assist them in doing so.

Term of office and number of members of the works' council

The works' council is elected for a period of five years and the number of its members varies between 3 (where there are up to 100 employees altogether) and 13 (where there are above 2000 employees altogether) depending on the number of employees. There are detailed rules relating to the procedure for electing the members provided in the Labour Code.

8.4. Rights of staff representatives

Opinion of the works' council

The employer is obliged to seek the opinion of the works' council before taking decisions that would affect a significant group of the employees, so especially the following:

- reorganisation of the employer, its transformation, the transformation of an organisational unit into an independent organisation, privatisation and modernisation;
- decisions relating to changing the data recorded;
- decisions relating to the employees' training;
- decisions relating to the rehabilitation of disabled employees;
- decisions relating to the introduction of new work or organisational methods and performance requirements; and;
- introduction of employee subsidies;
- decision on work order or remuneration principles;
- decision on measures concerning equal treatment and opportunities;
- coordination of family life and work activity;
- decisions relating to internal regulations.

No right of objection
Right of consultation

It should be noted that the work's council does not have a right to veto any decisions, merely a right to be consulted. The works' council is obliged to inform the employer of its views in relation to these issues, within 15 days, failing which, its consent is deemed to have been given.

Duty to inform

Furthermore, the employer must inform the works' council at least once every six months of:

- material issues regarding the employer's business position;
- any changes to salary levels, the employer's ability to pay the salaries, the special conditions of employment, the use of working time and the working conditions;
- the number of employees employed by the employer and of their positions.

8.5. Staff representatives and the right of paid release

Working time allowance

Members of the works' council shall be entitled to a working time allowance of 10% (15% in case of the chairman of the works' council) of their monthly working time in which to carry out council work.

In respect of trade union officials, the total amount of working time allowance for all officials is one hour per month for every two trade union members employed by the employer. The time allowance may be used by the end of the given year and may not be redeemed in the form of financial remuneration).

8.6. Staff representatives and material expenses

Employers shall cover the justified and necessary costs of election and operation of the works' council.

Justified and necessary costs

8.7. Collective Bargaining Agreements

As a general rule, a representative trade union is entitled to conclude a collective agreement with the employer if has a membership of at least 10% of the workforce based on the average number of employees in the past six months at the employer.

One union organisation

If more than one trade union maintains a local branch at an employer, the collective agreement must be concluded jointly by all the trade unions.

Several union organisations
Duty to bargain in good faith

Please note that only one collective bargaining agreement may be concluded with an employer. If a trade union is entitled to conclude a collective agreement, the employer cannot refuse to bargain in good faith, but there is no legal obligation to conclude a collective agreement.

The Minister of Labour Affairs may extend the scope of the collective bargaining agreement to the entire sector (see point 2.2.).

Extension of the scope of the collective agreement

Collective agreements do not apply to executive employees.

Executive employees

9. Employment disputes

9.1. Individual employment disputes

In labour disputes arising from Hungarian employment, the Hungarian employment and administrative tribunal, that covers the registered office (or business premises) of the employer or the court at the place where the work has been carried out has exclusive jurisdiction.

Courts

Legal disputes at the court usually start with an attempt to achieve a settlement. The use of a mediator may be stipulated in the employment contract. The law encourages the use of mediation but it is currently not considered to be common in Hungary.

Mediation

9.2. Collective employment disputes

Arbitration

Any dispute arising in connection with employment relationships between the employer and the works' council or the trade union, which does not qualify as an individual legal dispute, shall be settled by negotiations between the parties concerned. In the interest of settlement of such dispute, the parties may employ an arbitrator based on an agreement.

10. Social Benefits

General background

The Hungarian compulsory social security system contains a (state-owned) health fund, and a state-owned pension fund. Due to the changes in legislation, most employees have been transferred back to the state system from the private pension funds. However, voluntary mutual pension funds are still popular and operate within Hungary.

10.1. Contributions for social insurance

Contributions of the employee and the employer

The employer pays a 19.5% social tax, along with a 1.5% training fund contribution. Also, the employer deducts the following contributions from the gross salary:

(i) pension fund contribution: 10%;
(ii) health fund contribution: 7%;
(iii) labour market contribution: 1.5%

In addition to these contributions, the employer must deduct and pay the personal income tax of 15% to the tax authorities for and on behalf of employees.

These taxes should be taken into consideration in the cost of the termination as well.

10.2. Retirement

Gender free

In general the person who reached the retirement (that is between 63 and 65 years depending on the date of birth) and has been in service for 20 years may qualify for the state pension.

10.3. Calculation of the pension

Minimum pension

The official minimum pension is currently HUF 28,500 (approx. EUR 91) per month. The amount of pension is, notwithstanding the official minimum pension, calculated on the basis of the number of years in service and the

average salary during that period. The pension is a percentage of the average salary, with the relevant percentage decreasing as the salary increases.

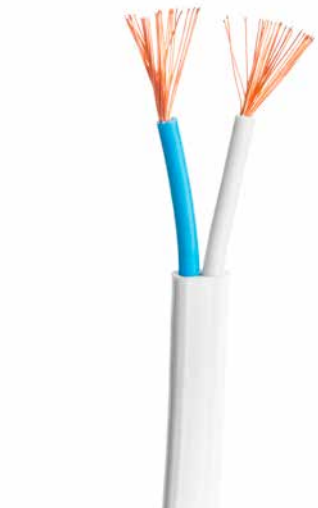
10.4. Unemployment benefits (job-seeker benefit, in Hungarian: álláskeresési járadék)

Funding of the unemployment scheme

Unemployed people are supported first by the local government offices.

Amount of the unemployment benefit

Unemployment benefit generally amounts to 60% of the average payment paid to the unemployeed person within the 4 calendar quarters preceeding the loss of his/her job. The amount of such benefit cannot be higher than 100 % of the minimum wage (i.e. HUF 138,000 – approx. EUR 442 in 2018). It is paid for a minimum period of 36 and a maximum period of 90 days, depending on the length of employment. After the expiry of the above period, unemployed people are entitled to a very low amount benefit only, being 80% of the official minimum pension (i.e. HUF 22,800 – approx. EUR 73 per month in 2018).



Poland

1. Hiring Employees

1.1. Employment contracts

Types of employment contracts

Conventional employment contracts may be for an indefinite or limited period of time. They may be preceded by a trial employment period not exceeding three months.

As a general rule, only three consecutive fixed-term contracts are permitted and the period of employment under fixed-term contracts, as well as the total period of employment on the basis of fixed-term contracts concluded between the same parties may not exceed 33 months.

Compulsory prolongation of fixed-term contracts

If the period of employment is longer or where a fourth consecutive fixed-term contract is entered into, the contract will be automatically deemed to be for an indefinite period. These rules do not apply when a fixed-term contract has been entered into:

- for the purposes of substituting an employee during his/her excused absence at work;
- for the purposes of performing any work of a casual or seasonal nature;
- for the purposes of performing work during a term of office;
- if the employer gives objective reasons related to the employer
- where the conclusion of such contract in a given case addresses a real and temporary need and is necessary for all the circumstances surrounding the conclusion of the contract.

Written form required

Employment contracts should be concluded in writing, although oral agreements are also valid as long as they are confirmed in writing prior to commencement of employment. Should an employer fail to complete the confirmation in writing, certain fines may come into effect.

Issues to be specified

An employment contract must clearly specify the parties, the type of contract, the date of execution and the work and pay conditions, in

particular the type of work, the place of work, the date of commencement, the working time and remuneration corresponding to the type of work, including designation of remuneration components.

Choice of law

The parties to an employment contract are free to select the law of another country, if it is relevant to their relationship.

However, if work is to be performed in Poland certain employee entitlements as imposed by local law may need to be recognised by an employer if they go further than those provided under the law of choice.

Jurisdiction clause

The parties to an employment contract may not exclude the jurisdiction of Polish courts by choosing foreign courts or an arbitration court (either Polish or foreign).

1.2. Service agreements

No substitute for employment contract

Tasks may also be performed under the framework of service, management or specific task agreements. However, an employment contract may not be substituted with any other contract, if the conditions of the relationship between the parties to the contract are characteristic of an employment relationship (e.g. performing specific work according to the instructions and under the control of the employer, at a place and time specified by the employer, receiving fixed remuneration for the performance of work). In such circumstances the individual's work will be considered to be performed under a contract of employment regardless of the title given to the contract by the parties.

1.3. Employment of foreigners

Work permit

Employers who wish to hire foreign employees in Poland, must obtain a work permit from the relevant Voivode Office (provincial governor). Foreigners may only be employed for the period of time specified in the work permit (which can be issued for a maximum of 3 years with a possibility of prolongation), but no longer than for the period of stay established in a work visa or the period specified in a temporary residence permit in Poland. A work visa/temporary residence permit is a separate travel (or residence certification) document to the work permit and is obtained by the foreign employee him/herself.

Exemptions

In general, work permits are not required for EU or EEA citizens or citizens of other countries linked to the EEA association by bilateral agreements with EU countries and the European Community itself (Switzerland).

Apart from the above, work permits are not required e.g. if a foreign national from another country:

— holds a permanent residence permit in Poland;
— is a spouse of a Polish citizen and holds a temporary residence permit in Poland granted in connection with entering into a marriage;
— is holding a valid Pole's Card;
— is authorised to stay and work in the territory of an EU Member State or an EEA State not belonging to the EU or the Swiss Confederation, who is employed by an employer with its seat in the territory of such state and temporarily delegated by this employer in order to provide services in Poland;
— works as a managing director of a Polish company for less than 6 months during any 12 consecutive months and stays in Poland on the basis of an appropriate work visa/ temporary residence permit;
— is posted to work in Poland (whilst still having his/her permanent residence abroad) by a foreign employer for a period not exceeding 3 months, to install, maintain or repair equipment or machinery produced by the foreign employer, or to train workers how to operate imported equipment;
— is posted to work in Poland by an employer from another EU country provided that he/she has a relevant work authorisation enabling him/her to be employed in another EU country and that he/she retains a permanent residency in an EU country;
— is a citizen of Russia, Ukraine, Belarus, Armenia, Moldova or Georgia and works for less than 6 months during any 12 consecutive months and his/her employer registers their declaration of employment in the relevant Labour Office.

1.4. Special rules for executives

General rules apply with only minor exceptions

Executives (managing directors and other managers), who enter into an employment contract, are covered by the general rules of employment law.

There are only minor exceptions to these general rules. For example, executives generally do not have the right to additional remuneration for work performed beyond normal working hours. In addition different rules apply in relation to working during night-time, minimum rest in a 24-hour period, limit of total weekly working time and – generally – time recording.

2. Remuneration

2.1. Minimum salary

Statutory minimum salary

The parties are free to agree the amount of remuneration. However, the monthly remuneration cannot be lower than gross PLN 2,000, which is the minimum national monthly wage for a full-time employee stipulated by law as of 2017. In 2018 the national minimum wage for a full-time employee will increase to gross PLN 2,100.

Collective agreements

If an employer is bound by a single establishment or multi-establishment collective labour agreement, then the remuneration agreed by the parties may not be lower than the remuneration provided by these collective agreements.

Suspension of a collective agreement

If the financial situation of the employer so requires, the parties to a collective labour agreement may conclude an arrangement to suspend the application of provisions of such collective labour agreement and/or multi-establishment agreement, in full or in part, for up to 3 years.

2.2. Pay increases

Legal basis

There are no general requirements for pay increases and they are agreed individually by the parties. They can also be covered by collective labour agreements or internal remuneration by-laws.

2.3. Reduction of salary

Only with an employee's consent

An employer may try to reduce the employee's remuneration with the consent of the employee concerned (by signing with the individual the relevant addendum to his/her employment contract) or – in the absence of such consent – by issuing an alteration (adjustment) notice with the new terms and conditions of pay, to be effective after the required notice period ends.

However, if an employee does not accept the new terms and conditions set out in the alteration notice it results in the ultimate termination of his/her employment contract with the employer.

In practice this means that it is not possible to reduce remuneration without the employee's consent.

3. Working time

3.1. Standard working hours and breaks

Daily and weekly standard working hours

Standard working time cannot exceed 8 hours per day and an average of 40 hours per an average five-day working week (within an adopted settlement/reference period not exceeding 4 months).

In cases where it is supported by objective or technical reasons or work organisation, the employer may extend the settlement/reference period by up to 12 months.

The settlement/reference period may be extended to 12 months in the collective labour agreement or by signing a special agreement with trade unions operating on site. If no trade unions operate on site, the agreement must be signed with ad hoc employees' representatives.

Paid and unpaid breaks
Specific work provisions

If the daily amount of working time is at least 6 hours, the employee has the right to a break of at least 15 minutes, which is included in the working time.

The employer may introduce an additional break, not included in the working time, of up to 60 minutes for eating or arranging private affairs. This break should be stipulated in the collective labour agreement, the workplace regulations or expressly in the employment contract (if the employer is not subject to any collective labour agreement or is not obliged to adopt workplace regulations).

Working schedules

Specific work provisions can modify a standard 8-hour day.

Reducing the standard working time for employees working in onerous or harmful to health conditions may be done by establishing breaks from work included in the working time or by reducing the standard working time. In the case of monotonous work or work performed at a fixed pace it may be done by introducing breaks from work counted as working time.

Additionally, in cases where the type of work or its organisation justifies it, a non-consecutive working-time system may be introduced in accordance with a pre-arranged schedule providing for not more than one break from work per day which lasts for no longer than 5 hours. The break is not included in the working time, however the employee is entitled to receive remuneration for the break period in the amount of half the remuneration due for the duration of the stoppage.

Generally, the employer should prepare in advance and present the employees with individual working time schedules, determining the hours of

work during the day, week, month and settlement period. In practice, a working time schedule specifies the start and end times for each day as well as the days off. A work schedule may cover part of the settlement period. In any event it must cover at least one month and be presented to employees at least one week in advance.

3.2. Minimum rest periods

Daily minimum rest period

As a general rule an employee is entitled to at least 11 hours of continuous rest each day. A young person's break from work, including at night-time, must be at least 14 consecutive hours. A young person is a person between 16 and 18 years old.

Weekly minimum rest period

In addition, an employee is entitled to at least 35 hours of continuous rest each week. The 35-hour rest period must include a Sunday or another day if work on Sunday is permitted. A young person's weekly break from work should be at least 48 consecutive hours covering Sunday.

Employees usually have two days off per week. There is no obligation to grant Saturdays as days off. If the employer needs some staff to work on Saturdays on a regular basis, then it may decide to specify a different working day as the day off for such employees.

Working on Sundays and on public holidays

Sundays and public holidays are generally days off. Work on these days is only permitted in some cases provided for by law (see section 3.5. below).

An employer is obliged to ensure that an employee working on a Sunday or a public holiday will have another day off in return for such work. In exceptional circumstances, if it is impossible to grant an employee another day off, an employee must receive appropriate compensation for such work.

If work is performed on Sundays on a regular basis, an employee should have at least one Sunday off in every four weeks.

Work on Sundays can be performed without any restrictions if an employee is employed under a system in which the work is performed only on Fridays, Saturdays, Sundays and public holidays.

3.3. Maximum working hours in certain working time systems

Balanced working time system

If work cannot be distributed so as to be performed eight hours a day on a regular basis due to the type of work or the organisation of such work, an employer may apply a balanced working time system, where it is admissible to extend the daily amount of working time up to 12 hours. Under this

system employees are awarded additional free time on other working days of a given week or additional days off in order to balance the excess work performed earlier that week.

Extensive work must be balanced within a one-month settlement/reference period. In especially justified cases, the settlement period may be extended up to 3 months. In cases where the type of work or its organisation justifies it, the employer may extend the settlement period up to 12 months.

This working time system may be useful in situations when the employer is able to anticipate in advance that the workload will exceed eight hours of work on a given day.

Continuous working systems

With regard to any work, which due to the production technology cannot be interrupted (work in a continuous working system), a continuous working-time system may be adopted where it is admissible to extend the working time for up to an average of 43 hours per week in a settlement period not longer than 4 weeks. Within this standard, the working time of one day per week may be extended up to 12 hours in some weeks.

Special types of work

If the work involves guarding equipment, or partially involves readiness for emergency work, then a balanced working time system may be applied, which allows the daily amount of working time to be extended up to 16 hours in a settlement period not longer than 1 month. In this system, directly after each period of work that exceeds the standard daily amount of working time, an employee has the right to rest for a time corresponding to at least the number of working hours (this is without prejudice to the regular rest of 11 hours per day and 35 hours per week).

Employees employed in guarding property or protecting individuals as well as employees of the establishment's fire protection team or rescue services may be subject to a balanced working time system, in which the daily amount of working time may be extended to 24 hours in a settlement period not exceeding 1 month. Again, directly after each period of work which exceeds the standard daily amount, an employee has the right to rest for a time corresponding to at least the number of working hours (this is without prejudice to the regular rest of 11 hours per day and 35 hours per week).

Task-specific working time system

This regime may be applied in cases justified by (i) the type of work to be performed individually and in a flexible manner; (ii) work organisation (no office routine); or (iii) specified places of work usually outside of the employer's premises. In this system the employer, after consulting the employee on his/her tasks, establishes the time required for performance of assigned tasks, taking into consideration the working time standards referred

to above (8 hours per day and an average of 40 hours per average five-day working week within an adopted calculation period not exceeding 4 months).

This working time regime does not require the employer to record the employee's working hours on a regular basis, as the employee's working time is measured by the assigned tasks.

The employer may introduce a flexible working time system, under which the employees may start and finish work at different times on different days. For example, the employer may determine that work starts between 8 am and 10 am and finishes between 4 pm and 6 pm. Staring and finishing hours may be chosen by the employee or determined by the employer, as the case may be.

Flexible working time system

The flexible working time system may be introduced in a collective labour agreement or in a special agreement with trade unions operating on site. If no trade unions operate on site, the agreement must be signed with ad hoc employees' representatives. It may also be applied individually at an employee's written request.

3.4. Overtime work

Definition and general principle

Work performed in excess of the standard working hours and work performed in excess of the extended daily working hours (based on the working time regime where such extension is permitted) constitutes overtime work.

Such work is only permissible in the case of:

— a need to carry out rescue operations for the protection of human life or health; for the protection of property or the environment or for a need to repair a breakdown;
— special needs of an employer.

Limitation on overtime work

The number of hours of overtime work connected with the special needs of an employer may not exceed 150 hours per a calendar year per individual employee.

The collective labour agreement, workplace regulations or the employment contract may stipulate another amount of overtime work hours per calendar year.

However, the overall working time, including overtime work, shall not exceed 48 hours per week, on average, in the adopted settlement/reference period (this does not apply to employees managing the organisation on behalf of the employer).

Compensation of overtime work

For overtime work, in addition to the regular remuneration, the employee is entitled to an allowance of:

— 50% of the hourly rate – for overtime hours during a working day (including weekends and public holidays, if according to the working time schedule these are normal working days);
— 100% of the hourly rate – for overtime worked at night, on Sundays and on public holidays that are not usual working days for the employee, as well as on rest days granted in exchange for working on Sunday or public holidays that are not usual working days for the employee.

The employee shall not receive an allowance for working on a Sunday or public holiday if he/she has taken a rest-day in lieu.

The allowance is also payable for each hour of work in excess of the weekly working hours in the settlement/reference period (for example on Saturday as the sixth day of a working week).

Time off in lieu

Instead of payment of the allowance an employee may be granted time off in lieu. An employee who is granted time off for his/her overtime is not entitled to additional compensation for overtime.

If time off is granted at the employee's request, it should correspond to the amount of overtime worked. Time off may also be granted at the employer's request. In such a case, the number of hours off corresponds to 150% of the number of hours worked overtime. Time off is granted in a given settlement period. The remuneration due to the employee for a full month may not be decreased due to granted time off (if the employee receives remuneration at an hourly rate).

Employees that do not qualify for overtime allowance

Employees who manage the employing establishment on behalf of the employer and heads of separate organizational sub-units of the organisation shall, insofar as necessary, perform work beyond normal working hours without the right to additional remuneration for overtime.

Employees who are heads of organisational sub-units have the right to additional remuneration for overtime work performed on Sundays and public holidays if they have not been given another rest-day in return.

3.5. Working on Sundays and public holidays

Definition

As a general rule, Sundays and public holidays are days off.

Unless stated otherwise, work on Sundays and on public holidays is considered to be work performed between 6 a.m. on the same day and 6 a.m. on the following day.

Permissible only in certain circumstances

Work on Sundays and public holidays is permissible only in certain circumstances such as:

— the need to carry out rescue operations for the protection of human life or health, or for the protection of property or the environment, or to repair a breakdown;
— a continuous working system;
— shift-work;
— carrying out necessary repairs;
— transport and public transport;
— for fire brigades or rescue services in the work place;
— guarding property or protecting individuals;
— agriculture and breeding;
— work necessary because of its public usefulness and daily needs of the public, including in particular establishments rendering services to the public, catering establishments, hotel establishments, municipal public utility entities, health care centres and other health care establishments designed for people whose health requires everyday medical care, welfare houses and care and upbringing establishments providing all-day care, and establishments carrying out cultural, educational, tourist and recreational activities;
— working in a time system where work is rendered on Fridays, Saturdays, Sundays and statutory holidays only (this system can be established upon the employee's written request. In this system it is possible to extend the daily amount of working time up to 12 hours in a settlement period not exceeding 1 month);

Weekend working time system

— rendering services using means of electronic communication or using telecommunications devices, received outside the territory of the Republic of Poland, if, pursuant to the provisions binding for the service recipient, Sundays and public holidays are working days for such service recipient;
— ensuring the possibility of rendering services referred to in the previous point.

Trading units

On the other hand, work on public holidays is not allowed in trading units. Trading units can only be open on Sundays in exceptional circumstances – when necessary in light of its public usefulness and daily needs of the public.

3.6. On call

General

Polish law permits an employer to require an employee to be on call outside standard working hours.

Time on duty and working time

The time on duty will not be included in the working time if an employee does not perform any work whilst on duty. The time on duty, however, must not breach the employee's right to rest.

Compensation for on call
Redundancy

The employee shall be entitled to compensation for on-call time, either in the form of extra time off corresponding to the length of the time on call, or extra pay for each hour spent on duty. This compensation is not required if the employee stays at home on call.

The above restrictions do not apply to employees who manage the employing establishment on behalf of the employer.

3.7. Allowance for night work

Calculated on the basis of the statutory national minimum wage

An employee who performs work at night has the right to additional remuneration of 20% of the hourly rate based on the national minimum wage for each night-time working hour (as referred to in section 2.1. above).

Night-time work hours are determined by an employer and set out in the company workplace regulations. Night-time means any eight hours between 9 p.m. and 7 a.m.

With respect to employees regularly performing night work outside the company's premises, the above additional remuneration may be replaced with a fixed remuneration of an amount corresponding to the expected amount of hours of night-time work.

4. Paid annual leave (holiday)

4.1. Holiday entitlement

General

As a general rule, any employee has the right to annual, uninterrupted, paid holiday leave.

Minimum holiday entitlement

Annual holiday leave entitlement is determined based on the total employment history of the employee. For the purpose of calculating this entitlement any periods of former employment must be included, regardless of breaks in employment and the way in which the employment relationship was terminated. In addition, the employment history includes certain periods spent by the employee on education.

The annual holiday leave entitlement amounts to:
— 20 days – up to 10 years of employment history;
— 26 days – on or after 10 years of employment history.

Holiday leave is counted in business days. Saturdays, Sundays, public holidays and days off that are not usual working days according to a five-day week are not counted when calculating holiday leave.

Holiday on demand

Polish law guarantees that every calendar year an employee has the right to enjoy 4 days of his/her annual holiday entitlement on a date of his/her choosing without prior approval (days off on demand). Generally, this leave may be taken in full or in one-day instalments. The employee may request such days off on the day of commencing the leave at the latest.

Employees hired during the calendar year

New employees hired during the calendar year are entitled to annual leave entitlement in proportion to the period for which they are employed at the new employer.

Accrual of holiday entitlement in the first year of work

An employee joining the employer as his/her first job can only take holidays in the first year of employment after he/she has worked the relevant period to accrue that holiday. The employee acquires his/her right to holiday gradually after each month of work, at the rate of 1/12 of the length of leave due to him/her after working for one year. They become entitled to any subsequent holiday leave if they remain employed on January 1st of the next calendar year.

Education

The period of employment includes certain periods spent by the employee on education, including:

— not more than 3 years for completion of basic or other equivalent vocational training;
— not more than 5 years for completion of secondary vocational training;
— 5 years for completion of a secondary vocational school for graduates from basic or other equivalent vocational school;
— 4 years for completion of general secondary schooling;
— 6 years for completion of post-secondary schooling;
— 8 years for graduation from the university.

The periods of study listed above may not be cumulative.

If an employee attended school while employed, the period of employment includes either the period of employment or the period of education (whichever is more advantageous to the employee).

4.2. Enhanced entitlement of paid holiday

Young persons

A young person (i.e. a person between 16 and 18) is entitled to 26 days of paid holiday after the first year of work. However, in the calendar year in which the young person reaches the age of 18 years, he/she is entitled to 20 days of paid holiday if he/she has acquired the right to holiday before reaching the age of 18.

A young person acquires the right to his/her first holiday of 12 days after 6 months following the beginning of his/her first employment.

After 10 years of work the young employee is entitled to 26 days of paid holiday, as provided under the general rules (see section 4.1. above).

Special provisions

There are some groups of employees who enjoy an enhanced entitlement of paid holiday e.g. policemen (up to 13 additional days of paid holiday depending on work experience, age and performing duties under special health and safety risks) or miners.

4.3. Forfeiture of the holiday entitlement?

Forfeiture of the holiday entitlement

An employee may not give up his/her right to annual leave.

Employers' obligation

If an employee does not take his/her holiday for one (or more consecutive years), the holiday is carried forward and added to the next year's holiday. An employer is obliged to grant unused holiday during the first 9 months of the following calendar year.

An employee's claim concerning unused holiday is statute barred after 3 years starting from 30 September of the calendar year following the year in which the holiday was accrued.

Time bar after 3 years

4.4. Payment in lieu of holidays?

Cash payment in lieu for unused holiday

The employee may only be paid a cash payment in lieu of unused holiday in the case of termination or expiry of the employment relationship.

In such a case all unused holiday leave days due on the date of termination of employment, will be compensated for with a cash payment calculated in accordance with the relevant local regulations.

This does not prevent the employer from requesting the employee to use up any outstanding holidays during the notice period.

5. Sick pay

Sick leave

Sick leave in Poland actually consists of two types of paid leave depending on who is obliged to continue payments during this period:

1. typical sick leave - for the first 33 days during a given calendar year (or 14 days in relation to employees aged 50 and above);

and upon completion of this sick leave:

2. long-term sick leave - which normally may not exceed 182 days of continuous absence in the same calendar year (including 33 or 14 days of the typical sick leave as appropriate).

Sick pay

The employer pays 80% of remuneration for up to 33 or 14 days of sick leave as appropriate.

Sick pay is 80% of the employee's average remuneration calculated on the basis of the salary received for the 12 consecutive months preceding the period of incapacity to work, unless the employer guarantees a higher sick pay.

Accident at work

The employee retains the right to 100% of his/her average remuneration for a period of sick leave due to an accident at work, an accident while travelling to or from work or disease during pregnancy.

The sick pay is paid for each day of incapacity to work, including rest-days.

Sickness benefit by the Social Security Office

Upon completion of the sick pay period in a given calendar year, the State Social Security Office assumes further payments (sickness benefit) to the employee on terms defined in separate provisions for a maximum period of 182 days per year (or 270 days if such incapacity is a result of tuberculosis or a disease during pregnancy). As with sick pay this allowance is 80% of the employee's average regular gross remuneration.

In general an employee must be insured with sickness insurance for more than 30 days in order to be entitled to receive statutory sickness benefit.

Sickness benefit is not provided for:

- those whose incapacity to work lasts less than 33 (or 14) days in a calendar year (in such circumstances employees are entitled to sick pay as set out above);
- those who are on unpaid leave;
- those who are on upbringing leave;
- those whose incapacity to work was caused as a result of committing an intentional crime or offence;
- who are under temporary arrest or subject to the penalty of deprivation of liberty;
- those whose incapacity to work was caused by alcohol abuse (for the first 5 days of their inability to work).

Apart from the sick pay for 33 (or 14) days of absence in a calendar year employers do not have to provide for additional statutory sickness benefits payable to employees.

If the employer employs 20 or more full time employees, the employer pays any payments to its employees on behalf of the State Social Security Office but in return it is entitled to deduct the sickness benefit paid out to employees in a calendar month from the current social security contributions made for active employees. Therefore the employer does not financially cover the costs of the sickness benefit paid out to the employees but helps the Office in paying the sick pay to the insured employees.

Medical certificate

Every absence due to sickness requires a medical certificate signed by a doctor, which must be submitted to the respective employer or the State Social Security Office.

Failure to provide a medical certificate will result in a 25% decrease of sick pay for the period beginning on the eighth day of uncertified absence until the date the certificate is produced.

A medical certificate may not cover more than 3 days of absence preceding the medical examination. The medical certificate is issued for the period during which the employee should refrain from work, but not longer than the date when it is necessary to carry out a re-examination of the employee's health.

In the case of sickness exceeding 30 consecutive calendar days, before returning to work the employee is required to undergo a medical check-up to establish his/her current health and capacity to perform duties assigned to the position held.

6. Termination of Employment

General background

An employment contract may be terminated (depending on the circumstances of the case):
— by mutual consent of the employee and employer;
— upon a written declaration by one of the parties observing the period of notice (termination with notice);
— upon a written declaration by one of the parties without observing the period of notice (termination without notice);
— after the lapse of the contract's specified period for which it has been concluded.

6.1. Formal requirements to be observed by an employer

Written form and reasons for termination

If an employer wants to terminate a contract with or without notice, the declaration has to be made in writing. A declaration of termination of an employment contract for an indefinite period or termination without notice should state the reason justifying termination of the contract. Furthermore, the declaration should include information on the employee's right to appeal to a labour court.

Obligation to inform a trade union

Where an employee is protected by a trade union and termination occurs for reasons other than the employer's bankruptcy or liquidation, an employer must inform the union of its intention to terminate a contract for an indefinite period (see section 6.8. below).

6.2. Notice periods

Varying notice periods

The period of notice depends on the type of the employment contract and may not be shortened below the statutory minimum. The period of notice may only be extended for the benefit of the employee. By law, the notice periods are as follows:

Contracts for indefinite period and fixed-term contracts

— with respect to employment contracts for an indefinite and definite period – notice periods increase gradually depending on the actual length of employment with the current employer; if the employee has been employed:
  - for less than 6 months: notice period shall be 2 weeks;
  - 6 months but less than 3 years: notice period shall be 1 month;
  - at least 3 years: 3 months.

Probation contracts

— with respect to probation employment contracts – the notice period varies between 3 working days and 2 weeks depending on the length of the probation period and are as follows:
  - 3 days notice if the contract is for a period up to 2 weeks,
  - 1 week notice for contracts for a period from 2 weeks to 3 months,
  - 2 weeks notice for contracts for a period of 3 months (statutory maximum).

Calculation of the notice period

If the notice period is expressed in weeks, the notice period ends on Saturday after the relevant number of full weeks. If the notice period is expressed in months, the notice period ends at the end of the last full calendar moth.

When calculating the applicable notice period the employer should add the prospective notice period to the actual length of employment, as the notice period is included in length of service.

6.3. Termination without notice

Termination by an employer

Employers have the right to terminate employment contracts without notice where such termination arises from the fault of an employee, or as a result of a long-term absence from work.

Termination due to fault of an employee

The immediate termination due to an employee's fault can take place only if an employee:

— has seriously and intentionally or by an act of gross negligence violated his basic duties (fundamental breach of employee's basic duties);
— has committed an offence that makes the employee's further employment in his/her position impossible, and providing this is obvious or confirmed by a final court verdict;
— is responsible for losing a licence or qualification necessary to perform his/her duties in the position held.

Time bar for an employer

An employer is only allowed to terminate the contract within 1 month of learning about the above circumstances.

Termination without an employee's fault

Immediate termination without the employee's fault can take place if the employee's incapacity to work, due to illness:

— lasts longer than 3 months (if he/she has been employed for less than 6 months); or alternatively
— lasts longer than a joint period of receiving sick pay from the employer, statutory sickness benefit and rehabilitation benefit for the first 3 months:
  - if the employee has been employed for at least 6 months; and/or
  - if he/she has become unfit to work through an accident at work or occupational disease.

The right to terminate without notice also arises if an employee's justified absence from work for other reasons than those provided above lasts longer than 1 month.

Termination by an employee

An employee may terminate a contract of employment without notice for health reasons if a medical certificate is issued stating the work performed by the employee constitutes a health hazard and the employer does not transfer him/her within the time period specified in the certificate to another work position appropriate to his/her health condition and qualifications.

Furthermore, an employee may terminate a contract without notice if an employer seriously violates its basic duties towards an employee. In such case an employee has the right to compensation equal to remuneration for the period of notice. If the contract is made for a fixed period, compensation shall be equal to the amount of the remuneration for the period of intended validity of the contract, but for not more than the notice period.

6.4. Requirement of a valid reason to terminate the employment

No statutory definition for "valid reasons"

An employer's termination with notice of a contract for an indefinite period or the termination of a contract without notice should state the reasons for the termination. Under Polish law, there is no legal definition of "valid" or "justifiable" reason. Disputes concerning reasons for termination are decided by the courts.

The reasons must be real and not of a general nature, so the employee can easily understand the grounds for his/her dismissal.

6.5. Remedies available to an employee

Time bar for judicial proceedings

If the employee finds the reasons or circumstances presented in the dismissal letter false or unjustified, he/she may challenge his/her dismissal in a labour court by requesting the court to assess whether the dismissal was compliant with Polish law.

In the case of dismissal with notice, an appeal against a notice of dismissal shall be submitted to a labour court within 21 days of the date of service of the letter notifying the termination of the employment contract. An appeal against summary dismissal must be submitted to the court within 21 days of service of the letter notifying about termination of the employment contract with immediate effect.

Grounds for appeal

An appeal against dismissal with notice may be based on:
— a breach of law on dismissal of the employment contract; or
— a lack of a 'justified reason' for dismissal.

Compensation or reinstatement

An appeal against a dismissal without notice may be based only on breach of law, as the reasons for termination are specifically defined by law. Employees dismissed with notice who have been employed for an indefinite period may ask the court to reinstate them in their position, or may claim compensation. Other employees may claim compensation only. A claim for reinstatement to work or alternatively for the payment of compensation can be submitted to a labour court by employees dismissed without notice.

In general, the decision as to whether the employee will be reinstated or awarded compensation is at the discretion of the court. The court may decide not to reinstate an employee to work if it considers such demand to be impossible or serving no purpose (this does not apply to employees under special protection, e.g. pregnant women).

Employees previously employed for an indefinite period and dismissed with notice may be awarded compensation in the maximum amount of 3 months' remuneration. Employees may be awarded even larger compensation if their employment contracts contain notice periods longer than 3 months. In such cases, compensation shall be equal to the remuneration for the period of the extended notice period.

Remuneration for the time of being unemployed

If an employee is reinstated to work, he/she has the right to compensation for the lost remuneration for the time of unemployment (between 1 to 2 months). In the case of an employee who enjoys special protection, the employer will be obliged to pay compensation to him/her for the whole period of their unemployment.

6.6. Collective Redundancies

Definition

Terminations of employment fall into the category of "collective redundancies" if the employer employs at least 20 employees and within the period of 30 days:

— the redundancies are made on an employer's initiative and are motivated by reasons not related to employees (e.g. a reduction in workforce due to the financial situation of the employer or due to organisational, production or technological changes, closure of the business or the company becoming insolvent) and
— pertain to at least:
  - 10 employees if an employer employs less than 100 employees,
  - 10% of employees if an employer employs at least 100 employees, but less than 300 employees,
  - 30 employees if an employer employs more than 300 employees.

Employees dismissed upon mutual consent of the parties are included in the numbers specified above where such dismissals include at least 5 employees.

Duty of notification

The collective redundancy procedure requires holding a consultation with the trade unions (if there are any) or 'ad hoc' employee representatives. The letters of dismissal cannot be handed out until after the consultation period ends. In respect of the trade union the minimum consultation period is 20 days. There is no statutory minimum consultation period where there are ad hoc employee representatives but it must be reasonable.

Notifying the local labour office of the outcome of the consultation with employee representatives and planned redundancies is also required. Letters of dismissal cannot be handed out prior to notifying the labour office. The employer cannot make any redundancies unless they are to take effect a minimum of 30 days after notifying the unemployment office. This applies to voluntary and involuntary redundancies.

6.7. Redundancy payment

Redundancy pay

Employees that are made redundant under the group redundancy procedure are entitled to a severance payment, the amount of which varies between 1 – 3 months' remuneration depending on an employee's total length of service.

Statutory cap

Severance payments are generally capped at 15 times the statutory minimum salary (which is currently fixed at gross PLN 2,000 as of 2017 and will increase to gross PLN 2,100 in 2018).

A redundancy payment may be due to an employee even where there is no collective redundancy situation. This is the case if a dismissal is made exclusively for the reasons other than the employee's conduct and performance, provided the employer employs at least 20 employees.

6.8. Involvement of a trade union

Information to be provided to a trade union

If an employee employed for an indefinite period of time is a trade union member or is a person whose rights the trade union has agreed to protect and is dismissed for reasons other than an employer's bankruptcy or liquidation or is to be dismissed without notice, an employer must, in advance, inform the trade union in writing of the reasons for terminating the employment contract with this employee.

Trade union may comment on the proposed dismissal

If a trade union decides that dismissal would be unjustified, it may present an employer with substantiated objections, in writing, within 5 days of receiving the information above (3 days in the case of dismissal without notice).

No right to veto the dismissal

An employer shall, having considered the opinion of the trade union, or in the absence of such an opinion received in due time, make a decision. However, an employer does not need the consent of the trade union.

6.9. Employees with special protection against termination of employment

Protected groups

Under Polish law, in certain periods of employment and for certain employees, a notice of dismissal cannot be served. Some employees enjoy special protection against dismissal.

In particular, the notice letter cannot be served to the employee while he/she is absent from work due to:
— holiday leave,
— maternity leave or parental leave,

Furthermore, the employee enjoys special protection against dismissal during the following periods:
— pregnancy,
— when the employee is due to qualify for his/her retirement in less than 4 years from the date of receipt of the letter of dismissal.

If notice is served during one of the above-mentioned periods, although it will be effective and will terminate the employment contract, it will be deemed unlawful and may be successfully challenged by the employee if he/she decides to bring the claim to the labour court.

Protection for trade union officers and members of works council

Polish law provides for protection to employees who are members of the company's trade union organisations (i.e. trade union officers and other persons designated by trade union as being protected against termination) as well as to members of European or national works council.

An employer cannot, without the permission of the management board of the relevant trade union organisation or the works council, respectively, terminate employment contracts or amend them in an unfavourable way with these members of the trade union organisation or the works council.

Works council members enjoy special protection against involuntary termination or adverse variation of their work and pay conditions during the term of their office.

The time of protection

Trade union officers and other persons appointed by the trade unions are protected against dismissal or adverse variation of their work and pay conditions during the term specified in the resolution of the management of the respective trade union organisation. They are also protected after the expiry of this term, for a maximum period of one year.

6.10. Changing terms and conditions of an employment contract

Alteration notice

If an employer wants to unilaterally worsen conditions of work or pay set out in an employment contract, it should do so in writing in the form of an alteration (adjustment) notice. In the case of an employment contract for an indefinite period of time, the employer must additionally explain the reasons for the change, and such change should be justified by a valid business reason. The changes come into effect after the applicable notice period (which is equal to the notice period under the contract).

If an employee rejects the proposed new conditions of work or pay within the prescribed deadline (generally during the first half of the notice period), the contract of employment will be automatically terminated at the end of the notice period. If an employee does not reject the proposed conditions during the first half of the notice period, then the new conditions are considered accepted. An employer's letter should include the appropriate information in this regard. If there is no such information, an employee can reject the new conditions until the end of the applicable notice period.

Addendum to an employment contract

Alternatively to issuing an alteration notice, an employer may sign with an employee an addendum on changing the individual's employment conditions. In such a case, the newly introduced conditions may be instantly binding.

7. Business transfer

Automatic transfer of employment contracts

Under Polish law, the transfer of an undertaking affects the employment relationship. The transferee assumes responsibility for employees working in the transferred business. The transferee becomes party to each employment contract automatically by operation of law as of the date of transfer of undertaking, and is thereby bound by all the terms of the contracts. Therefore, new employment contracts do not have to be entered into between the transferee and the transferred employees. Although employees are not under any obligation to work for the new employer (see information below), they cannot stop their transfer to the transferee.

Duty to inform employees

If there is a trade union organisation in the company, the employer who intends to transfer the undertaking must notify trade unions in writing of its decision at least 30 days before the planned transfer. In the absence of a trade union organisation, the transferor shall inform all employees (not only the employees affected by the transfer) in writing of the transfer within the same timeline.

As a works council is deemed a separate employee representative body, it must be notified of the transfer in addition to any trade union organisation.

Regardless of the notification made by the transferor, the transferee must notify its own employees about the acquisition of undertaking from the transferor within the same deadline.

Notice of transfer

If there are no trade union organizations present, both employers should notify their employees directly on the transfer of undertaking (without a trade union involvement).

Employees' right to terminate employment

In both cases a notice of transfer shall include information of the reasons for the transfer, legal, economic and social consequences of the transfer for employees as well as any intended actions relating to the conditions of employment of employees, including, without limitation, the conditions of work, remuneration and possibilities of retraining.

Any employee who is automatically transferred may, within 2 months of the transfer, terminate his/her contract with the new employer upon 7 days' notice.

Liability of the employer(s

Where the entire undertaking is transferred to another employer, the transferee, by operation of law, is liable for any employees' claims relating to the employment with the former employer.

Where only a part of an undertaking is transferred to another employer, both the former and the new employer become jointly and severally liable for the obligations under the pre-existing employment contracts. This means that an employee may sue either the former or the new employer, or both.

8. Industrial relations

8.1. Management of the business – state-owned companies

Special rules in state-owned companies and privatised enterprises

In companies established as a result of privatisation and as a result of a transfer by the State Treasury of more than half of the company's shares, employees have a right to elect 1 employee to the company's management board (this is providing the company's average annual employment exceeds 500 employees).
Employees may also have the right to appoint members of such companies' supervisory boards. For example, the initial supervisory board of a state-owned enterprise formed into a privatised company must include 2 employee representatives.

8.2. Employees' representatives in state-owned enterprises

Employees' representatives in state-owned enterprises

In state-owned enterprises, a general meeting of employees and an employee's council act as formal representatives of employees.

General meeting of employees

A general meeting of employees consists of all employees in enterprises employing 300 or less employees. In enterprises employing more than 300 employees the assembly of delegates replaces the general meeting of employees. Delegates are elected by employees for a period of two years. The number of delegates should be established in a statute containing rules on the employees' self-government.

Employees' council

An employees' council consists of 15 members unless the statute of the employees' self-government provides otherwise. Members of an employees' council are elected by employees for a period of two years.

Participatory rights

Employees' representatives have the right to decide upon matters of great importance, can present opinions, take initiatives and submit motions as well as supervise the activities of the enterprise.

No similar provisions for private enterprises

There are no similar provisions in relation to private enterprises.

Statistics

8.3. Level of industrial action

In Poland, trade unions, although not having strong statutory authority regarding the management of a company, can have an influence on the company by taking strike action. Strikes are sometimes used by trade unions to force employers to make decisions favourable to employees.

Below are some details in this regard published by the Polish Statistical Office.

Item	2013	2014
Number of strikes	93	3
Employees on strike	29263	848
in % of employees in organisations where strikes occurred	17.2	30.7
Number of working days not worked due to participation in strikes	10131	212

Only for certain trade union officials

8.4. Release from work to conduct trade union activities

Under Polish law, only members of trade union management boards (trade union officers) are entitled to be released in part or in full from the obligation to perform work whilst performing a function. The number of management board members who are entitled to the above depends on the total number of members of the trade union organisation acting at the given company.

members of a trade union employed in an establishment	members of the management board entitled to release from work
less than 150	1 member (part time)
150 – 500	1 member (full time)
501 – 1000	2 members (full time)
1001 – 2000	3 members (full time)
for each additional 1000	1 additional member (full time)

Remuneration for time off

A trade union may apply for an employee's right to remuneration whilst released from work.

Furthermore, each member of a trade union authority retains the right to remuneration for the time in which he/she needs to perform temporary activities connected with his/her function in the trade union organisation, if such activities cannot be performed outside of working hours.

8.5. Do employers need to provide any financial and/or technical assistance?

An office and necessary technical equipment to be provided

An employer is not required to reimburse costs that the staff representatives (trade union members) incur in connection with performing their functions.

However, an employer must, at its own cost, provide a trade union organisation with an office and equipment necessary to perform its activities.

8.6. Collective agreements

Scope of collective agreements

Under Polish law, employers and trade unions may enter into collective labour agreements, which provide the terms of employment relationship (e.g. remuneration, time of performing work, additional benefits for employees) and mutual obligations of the parties, including complying with its terms. Such a collective labour agreement directly affects the rights of employees and usually all employees working in the organisation are covered by its provisions.

No collective agreements for certain types of professionals

The Polish Labour Code provides that certain types of professionals cannot be subject to a collective labour agreement, for example, civil service officers, local government officers, judges and prosecutors.

Suspension of a collective agreement

If the financial situation of an employer so requires, an employer may make an arrangement with employee representatives to suspend any collective labour agreement, partially or in full, but for no longer than three years.

9. Employment disputes

9.1. Individual employment disputes

Labour courts

The Polish legal system provides for labour courts which function within the system of common courts. The labour courts have two levels.

Generally, labour courts adjudicate matters related to employment. It is not possible to decide in employment contracts or in by-laws that disputes should be subject to a jurisdiction other than the common courts.

Mediation can occur before taking a dispute to a labour court.
Most legal disputes concern the employee's dismissal.

Conciliation committees

Additionally, Polish law provides for conciliation committees whose task is to amicably resolve disputes between employers and employees and, where possible, avoid a dispute reaching the courts. The committees consist of

employees who are appointed by an employer and a trade union organisation, or if there is no trade union organisation in a company, then by an employer after obtaining the positive opinion of employees.

Such committees are rather uncommon in private entities.

9.2. Collective employment disputes

Collective dispute

A collective dispute involves whole groups of employees, not only individuals, and may be initiated by trade unions. A collective dispute arises on the date the trade unions submits demands if the employer subsequently fails to act on those demands within a specified period (not less than 3 days).

The employer must notify the proper labour inspectors on the fact that a dispute has arisen.

Negotiations

The employer is obliged to immediately enter into negotiations to resolve the dispute by reaching an agreement. There is no statutory deadline for completion of negotiations. Negotiations should be held as long as there is a chance of an understanding being reached. If there is a lack of consent of one of the parties to the continuation of negotiations, a document is produced specifying the differences and current positions of the parties to a dispute.

Industrial actions

Once negotiations have ended, trade unions may take any industrial action other than a strike, for example putting out banners.

Mediation

If the trade unions uphold their demands, the mediation stage commences. Mediators are appointed by the parties to a dispute. If the mediator is not selected at the request of one of the parties within 5 days, the mediation is conducted by a mediator appointed by the Minister for Labour and Social Affairs.

There is no deadline for completion of mediation.

Warning strike

If the mediation proceeds in such a manner that there is reason to believe that the dispute will not be resolved within 14 days of its arising, a one-off warning strike may be organised, for no more than 2 hours.

Arbitration

Before a strike is undertaken the trade unions may attempt to end the dispute by submitting it to an arbitration body for resolution. The arbitration stage is not compulsory.

In such a case trade union officers and the employer's representatives may constitute an arbitration body with a professional court judge as its chairman.

Strikes

The final possibility is a strike. During a strike the employees refrain from performing work.

Before a strike is announced trade unions are obliged to hold a strike referendum among the employees. Consent has to be given by a majority of the voting employees, in the presence of 50% or more of the persons employed in the company. If the strike is classified as a strike being conducted in multiple companies, consent has to be given by a majority of the voting employees in each company, in the presence of 50% or more of the persons employed in each company.

There are no time limitations with respect to the length of the strike referendum.

Generally, a strike can only be announced once:
(i) the negotiations and mediation have ended; and
(ii) a referendum has been held.

A strike may not start until 14 days after the date of announcement of the dispute. A strike can be undertaken no sooner than 5 days after the date the strike is announced.

The strike may be organised without negotiations and mediation being held in cases in which:
— the employer uses unlawful measures to block negotiations and mediation (for example through obstinately prolonging negotiations/ mediation), or
— the employer has terminated the employment relationship with trade union activists managing the dispute.

Strikes are voluntary. The striking employees retain the right to all social security benefits and entitlements under the employment relationship, except the right to salary. The period of the interruption in performance of work (i.e. period of the strike) is counted towards the total length of time of employment with a given employer. Employees not participating in a strike who do not agree to stop work due to the strike are entitled to remuneration for the period they have not worked due to the strike.

There are no statutory time limitations for strikes.

Strikes are forbidden in certain circumstances – e.g. in cases when human life and/or health or the state's security could be endangered as a result of such action.

10. State Benefits

General background

The Polish social security system covers the following risks: maternity, age, sickness and disability. Furthermore, the Polish legal system provides for a system of support for the unemployed.

10.1. Social insurance contributions

Contributions' components

According to Polish law, social insurance contributions are calculated on the basis of the income of an employee received from the employer (so called "calculation basis"), are expressed in the form of a percentage rate, and are deducted from an employee's salary each month.

The social security scheme consists of:

— retirement (pension) insurance amounting to 19.52% of a calculation basis (covered in equal parts by the employer and the employee);
— disability insurance amounting to 8% of a calculation basis (covered in different parts by an employer – 6.5 % and an employee – 1.5 %);
— sickness insurance amounting to 2.45% of a calculation basis (covered solely by an employee);
— accident insurance amounting to 0.40% – 8.12% of a calculation basis (covered solely by an employer);
— health insurance amounting to 9% of a calculation basis (covered by an employee).

In addition, the employer must pay contributions to the Labour Fund of 2.45% of the calculation basis and to the Guaranteed Employee Benefit Fund amounting to 0.10% of the calculation basis. These contributions are paid by the employer on top of the gross salary.

10.2. Retirement age

Different for men and women

The retirement age in Poland is currently 65 for men and 60 for women.

10.3. Calculation of a pension

Employees born before 1 January 1949

For employees born before 1 January 1949, pension is calculated on the basis of an average contributions' for the period of 10 consecutive years (as chosen by the employee) from a 20-year period preceding the year of submitting an application for the payment of a pension. Alternatively the employee can choose any 20 calendar years.

Employees born after 31 December 1948

In case of employees born after 31 December 1948, pension is calculated on the basis of the total amount of contributions collected on the individual pension account of the employee up until the end of the month preceding

the payment. This amount is increased by the "initial capital", which is a hypothetical amount that has been collected by a given employee before 31 December 1998 where the transition from the old to the new pension system took place.

10.4. Private pension arrangements

Reform of the state pension system in 1999

In 1999, Poland introduced a pension system reform based on a three-pillar system. The first pillar is a reformed pay-as-you-go system, with pensions more closely related to the contributions collected by an employee, managed by the Social Insurance Institution (ZUS).

Second pillar – pension funds

The second pillar is a funded system whereby the insured person contributes to any one of the open pension funds of the individual's choice. Each of these is managed separately by a pension fund society.

Third pillar, (e.g. individual pension accounts, employee pension schemes)

The third pillar consists of other forms of saving money e.g. individual pension accounts, company pension schemes etc.

10.4. Unemployment benefits

General areas of activity

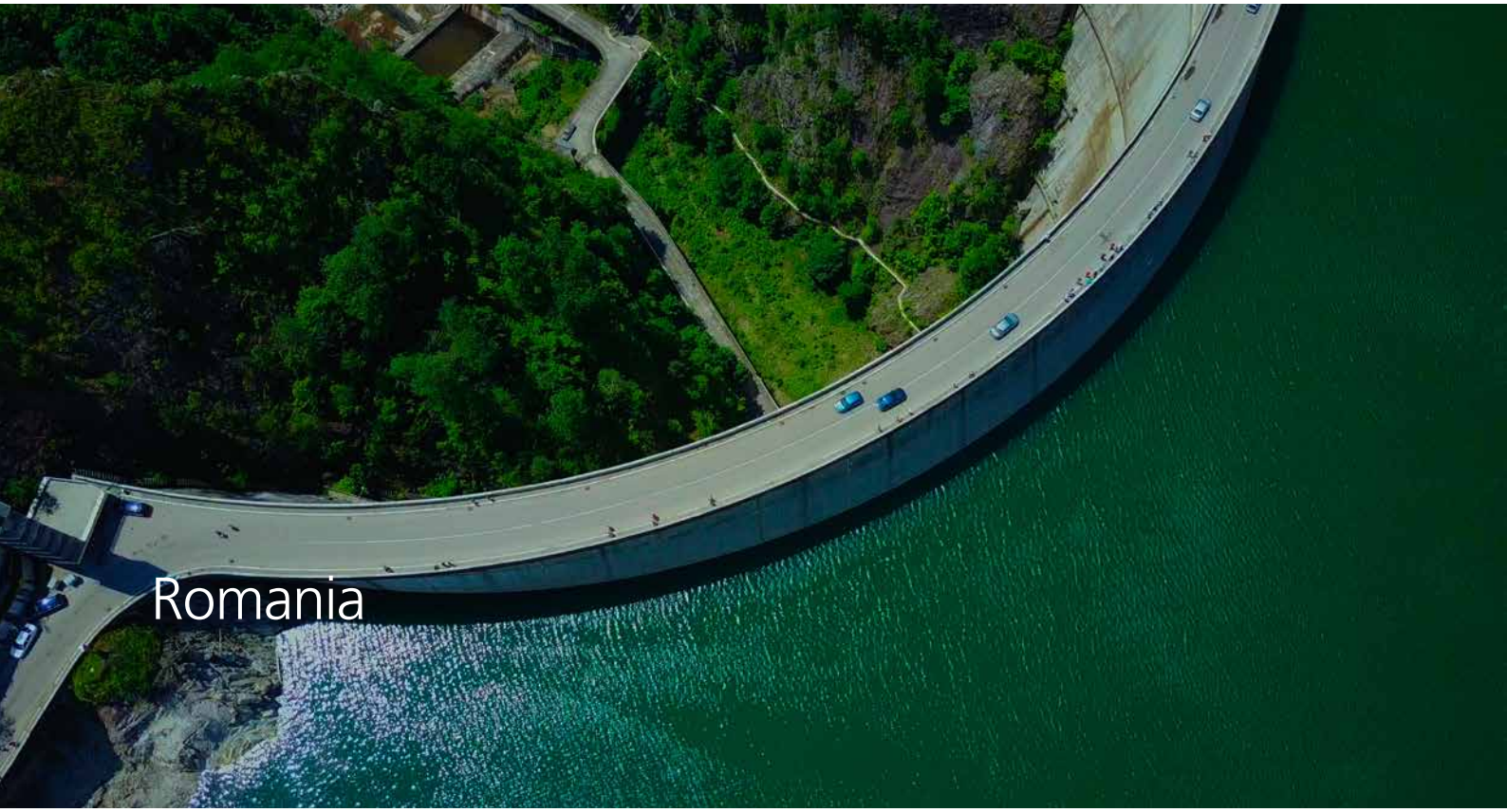
The Polish legal system provides for a support system for the unemployed. This mainly consists of unemployment benefits and training programmes, which aim to help individuals gain new qualifications and find new employment.

Unemployment benefits

Unemployed persons who have worked for at least 365 days in the preceding 18 months and providing there is no alternative activity for them to undertake, receive a monthly benefit of PLN 823.60 monthly for the first 90 days of having the right to the benefit, and PLN 646.70 monthly for the following period.

Funding the unemployment schemes

Employers pay contributions to the Labour Fund of 2.45% of the calculation basis for social security contributions.



Romania

1. Hiring Employees

1.1. The Employment Contract

Written form of employment contracts

A labour relationship is created by an employment contract made in writing (ad probationem in the Romanian language). If the employer fails to sign a written employment contract, it does not affect the validity of such a contract.

Presumption in the absence of a written contract and record

Further, if the employer fails to sign a written contract, it is assumed that the employment contract operates for an indefinite period. The parties may overturn this presumption by presenting any evidence relevant to the contract's duration.

Registration with the competent labour inspectorate

The employer must register individual employment contracts with the electronic register of employees (known as REVISAL) on or before the last working day before the employee commences work.

Issues to be specified in the contract

An employment contract must stipulate the following details:

- the name and addresses of the parties;
- the place of work, or details explaining that the work will be performed in various places;
- the job description, and work classification according to Romania's Classification of Occupations, or other relevant legal provisions;
- the specific risks of the respective position;
- -the date that the contract becomes effective;
- the duration of the employment (if employment is for a definite term);
- the duration of paid leave;
- notice periods and conditions;
- base salary, bonuses, and frequency of payment;
- normal duration or work, expressed in hours per day and per week;
- -he applicable collective labour contract (if applicable);
- the duration of the trial period (if applicable).

Fixed-term employment requires justification

Generally, an employment contract is presumed to operate for an indefinite period. Consequently, fixed-term employment is only lawful if it is justified by a reason expressly provided for by law. Examples of this include when employment is related to a project, seasonal business, the replacement of temporarily absent workers, or a temporary rise in the volume of business. A fixed-term employment contract must be in writing.

Probationary period

When entering into an employment contract, employees may be subject to a probation period of up to 90 days (or 120 days for executive positions). Where there is a fixed-term employment contract, the duration of the termination notice is between five and 45 working days but varies depending on the length of the agreed contractual period, as set out in the Labour Code (the "Labour Code").

1.2. Choice of law

Choice of law

Romanian law governs parties to an employment contract in two situations: i) when a Romanian employee is performing work within Romania; or ii) when a foreign citizen is performing work in Romania, for a Romanian employer. In these situations, parties cannot elect an alternative jurisdiction or law to govern the employment.

1.3. Jurisdiction clause

Jurisdiction clause

The parties to an employment contract can only rely on the jurisdiction of Romanian courts, practicing the procedural laws of Romania to resolve disputes. These courts may include country tribunals as first instance courts or courts of appeal for final appeals.

1.4. Contracts for services

Alternatives for employment contracts

A contract for services may offer an alternative to an employment contract. In this case, the service provider must be authorised to independently act or perform the services provided. It must be noted that such an agreement cannot be entered into for the purposes of avoiding entering into an employment contract. Furthermore, regardless of whether or not a contractor is employed under a contract for services, if the contractor is integrated into and subject to the contracting organisation's control then, the Labour Authority will likely consider that he or she is an employee. In addition, directors/managers of trading companies may be 'hired' under a 'management contract'.

1.5. Employment of foreigners

Employment provisions for EU citizens

Romanian legislation regulates EU citizens entering and residing in Romania. This has been aligned with EU legislation since January 2007, when Romania implemented Directive 38/2004/CE. Under this directive, EU citizens and their families have the right to move freely within EU Member States and can therefore reside in Romania. EU citizens also have unrestricted access to the labour market in Romania and do not require work permits.An EU citizen staying for more than 3 months in Romania will be required to ask Immigration Romania to issue a residency card.

Immigration law and labour market rules

When hiring non-EU citizens, in addition to the general conditions required under the Labour Code, some additional special conditions must be fulfilled. These are required by the Government's Emergency Ordinance on the legal status of foreigners (OUG 194/2002). As a result, non-EU foreign persons must obtain an appropriate visa (business visa or employment visa) from the National Authority for Foreigners and a work permit from the National Office for the Movement of Employees. There may also be additional conditions or exemptions contained in bilateral agreements between Romania and other states.

Visas and other requirements

When hiring foreign citizens, business visas are usually issued to foreigners who are members of management or supervisory boards of Romanian companies. These non-EU foreigners must apply for either a short-term or long-term business work permit.

1.6. Special rules for executives

Directors of Romanian companies may work under either an employment contract or a management contract, depending on the legal regime of the company. In the latter case of a management contract, general commercial and civil law determines the director's contractual relationship.

2. Remuneration

2.1. Minimum wage

Statutory minimum wage

The parties are free to agree on the amount of gross wages and bonuses that employees will receive, as well as further privileges and incentives. However, the parties must comply with the legal minimum wage. The Romanian government determines this minimum wage, and as of 1 January 2018, the minimum gross wage will amount to RON 1,900 (approx. 400 EUR) per month.

If the employer is covered by a collective bargaining agreement, then the minimum levels of pay set out in such an agreement must also be adhered to.

Collective agreements

2.2. Pay increases

Pay increases are usually agreed between employee and employer on an individual basis, or as a result of collective bargaining. In some circumstances, staff rules may also set out pay increases.

Legal basis

2.3. Reduction of wages

An employer must obtain the consent of the employee if they wish to pay the employee a lower wage, or wish to amend the employment contract.

Only with the employee's consent

If the employee withholds such consent, the only way the employer could amend the employment contract would be to unilaterally terminate that employee's existing employment contract and concurrently offer the employee another employment contract containing the amended terms and conditions. Unilateral termination of an employment contract by an employer is however, limited to specific circumstances and requires compliance with restrictive conditions provided for by the Labour Code. Additionally, an employer must not propose any wage terms and conditions that bring the employee's wage below the minimum wage (as defined by the relevant government decision, the collective bargaining agreement or the staff rules).

Termination of employment and offer of a new employment contract

3. Working time

3.1. Standard working hours and breaks

A regular working week for full time employees aged over 18, consists of 40 working hours or eight hours per day. Depending on the employer's activity, the working program may be structured differently as long as it complies with the Labour code's terms.

Daily and weekly standard working hours

A full time employee is entitled to a meal break each day, however, that break is not included in the working hours. The applicable collective bargaining agreement or employer's own regulations will determine the duration of this break.

Paid breaks

3.2. Minimum rest periods

An employee is entitled to a daily rest of at least 12 consecutive hours between two successive working days. In the case of shift-work, the break must not be less than eight hours between shifts.

Daily minimum rest period

Weekly minimum rest period

An employee is entitled to least 2 days rest per week. These are generally Saturdays and Sundays; if there is a specific need for the employee to work these rest days, then the employee must be given time off during the rest of the week or additional remuneration. This time off or remuneration should be provided for in the applicable collective bargaining agreement or in the employer's own regulations.

3.3. Maximum working hours

48 hours per week

Working hours must not exceed 48 hours a week, including a maximum of eight hours overtime (Please note employees under 18 years of age cannot do overtime and can only work a maximum of 40 hours per week). For shift-work, the daily and weekly duration of work may exceed eight hours and 48 hours, provided the average hours worked during a four month period does not exceed 48 hours a week. Please note that for some activities and jobs such average period is calculated over six months.

3.4. Working overtime

General principle

Employees can consent to working up to eight hours overtime, however employers can require employees to exceed eight hours of overtime in:

— force majeure cases; or
— urgent cases, in order to prevent accidents or limit consequences of an accident

Overtime work interdiction

Employees under 18 years of age are barred from working overtime.

Limits to overtime work

In any event, a working week (including overtime) must not exceed 48 hours unless there are exceptional circumstances (see 3.3. and 3.4. above).

Compensation of overtime work

As a rule, when an employee works overtime they must be compensated by being given paid leave during usual work time, for the hours worked. This paid leave must be given within 60 days of when the overtime was performed. In circumstances where compensation in the form of paid leave is not possible, employees can be compensated by a payment of 75% of the base salary pro rata.

3.5. Working on weekends and public holidays

Requires special business needs

To be considered lawful, work on the two days of rest provided for in the Labour Code (usually Saturday and Sunday), and public holidays must be justified by a special business need, such as activities that objectively require the employees' presence on those days. Employees that work these days are entitled to corresponding time off, or to an increase in pay as set out in the

individual employment contract or by the applicable collective bargaining agreement. Work on public holidays must be compensated by corresponding paid hours leave, within 30 days of the work. The employees benefit from a 100% increase in pay pro rata for the hours worked on weekends or legal holidays.

3.6. Premiums for night work and heavy-duty work

In addition to overtime and rest-days, or public holiday compensation, an employee is entitled to an increased payment for heavy-duty work (such as some factory or mining activities), and night-shift work. The amount of this premium may be specified in collective bargaining agreements, employment contract, or in staff rules. When an employee ordinarily works during the day, but are temporarily required to work nights (for shifts exceeding three hours), they may be entitled to a reduction in the daily working hours following that period. Alternatively, an employee may receive an additional 25% of their base salary for work performed overnight exceeding three hours.

4. Paid annual leave (holiday)

Minimum holiday entitlement

Each calendar year, an employee is entitled to receive at least 20 working days of paid annual leave. Public holidays are not counted in the annual leave. Part-time employees, are entitled to paid annual leave to be determined proportionally to the time worked.

Enhanced entitlement to paid leave

Employees who: undertake activities that are harmful to their health during their employment, are blind or handicapped, or below 18 years old, are entitled to at least three extra days of paid annual leave. Additional annual leave entitlements may be provided for in any other applicable collective bargaining agreements, staff rules or employment contracts.

Accrual of holiday entitlement

Employees accrue their entitlement to paid annual leave proportionally to the time worked; it must be used within 18 months of the year following its accrual.

Consuming the holiday

Employees must take annual paid leave in accordance with an individual or collective schedule of holidays agreed with the employer. The schedule must be planned to the end of each calendar year. The employer must schedule at least 10 consecutive days of paid leave in any calendar year. Employees may, for objective reasons, request to cancel or interrupt annual leave. The Labour Code does not define what objective reasons are but they may be interpreted to include the death or illness of a family member. The employer

may also request such interruption in force majeure cases, or if an emergency, requiring the presence of that particular employee arises. In these cases, the employer must bear all expenses related to the interruption.

Compensation

The payment of an employee's annual leave must be made at least five days prior to the commencement of the annual leave, and must be at least the employee's usual base salary plus the average amount of other salary incomes; including bonuses, premiums and indemnities. This is calculated by taking the employee's daily average income from the preceding three-month period and multiplying that daily average with the number of days off.

Payment in lieu of holiday

Annual leave cannot be exchanged, transferred, limited or waived in exchange for a compensation payment - even by agreement. The only instance where an employee may be paid a cash compensation for their annual leave is where their employment contract is terminated, in this case the leave can be paid in lieu.

Transfer of unused holiday to the next year

An employee should try to use their entire annual leave during the year it accrues. However, if an employee does not do this then any untaken leave can be taken within 18 months of the year following its accrual.

5. Sick pay

Notification and medical certificate
Sick pay

Medical certificate at the outset of employment

In cases where the employee is temporarily unable to work due to illness or injury, the employee may receive paid sick leave but must obtain a medical certificate granting medical leave for prescribed number of days. The duration of the temporary incapacity for work, shall not exceed 183 days within one year, counted from the first day of illness. After 90 days, any additional medical leave up to the 183 day period must be extended based on the opinion of an expert medical practitioner. In the event this period of time is exceeded the employer must keep the employee's job open for them but are not expected to continue to pay the employee sick leave.

Flexible working time system

An employee must produce a medical certificate confirming that they are fit to perform their job; if this certificate is not produced then the employment contract becomes null and void. The Labour Code also provides for several situations during the course of employment (generally those that imply changes in the performance of the contract) where a medical certificate must be produced.

6. Termination of Employment

General background

Generally, an individual employment contract can be terminated in the following situations:

— by virtue of law, following:
  - the death of the employee or of the employer (if the employer is a natural person), or in the event of the dissolution of the employer, from the date when the employer ceased to exist in accordance with the law;
  - a court decision declaring the death or interdiction of the employee or employer (if the employer is a natural person);
  - at the date a pension decision is made the employer and confirmed by the pension authority; or at the date a medical decision determining a person lacks capacity is made by the employer and confirmed by a medical commission;
  - if and when the parties acknowledge, or a court rules that an individual employment contract null;
  - for an employee replacing an illegally dismissed employee, upon the reinstatement of such illegally dismissed employee, at the date the reinstatement court ruling remained final;
  - upon a final court decision that determines that a person is convicted for the execution of a custodial sentence, as of the date of the final decision of the court;
  - the date the competent authorities withdrew the consent, authorisations or permits required for the exercise of the profession;
  - when an individual has been prohibited from exercising their role within a profession as safety measure or complementary punishment, as of the date the court ruling to this effect remained final;
  - at the expiration of the individual employment contract concluded for a determined period;
  - upon the withdrawal of the parents' or legal representatives' consent, for employees between 15 and 16 years of age.
— upon the agreement of both parties, on the agreed date;
— at the employee's initiative, by submitting his resignation;
— at the employer's initiative, within the conditions expressly stated by the law, namely:
  - for reasons connected to the employee's person (that imply the employee's misconduct or inadequacy); or
  - for reasons that are not connected to the employee's person, but occur for objective reasons that cannot be attributed to the employee such as the removal of the position/job due to economic difficulties, technological transformations or activity reorganisation. A dismissal in this instance may be individual or collective.

6.1. Formal requirements to be observed by the employer

Specific procedure regarding termination required

The Labour Code requires an employer to follow a strict procedure if they intend to terminate an employment contract. For instance, the employer must formally issue a termination decision including reasons for the termination of the contract. Where the dismissal is connected to the employee's person, usually a prior disciplinary investigation (where applicable) should have taken place, following steps stipulated by the Labour Code. Non-compliance with these requirements could result in the termination being invalid.

Employees' representatives

The Labour Code provides for certain cases when employees' representatives may be involved such as termination or disciplinary reviews.

6.2. Notice periods

Varying notice periods

Romanian labour legislation provides for different notice periods for employers and employees and the notice period required depends on the employee's position. The notice period can be agreed by the parties to the individual employment contract or, provided in the applicable collective labour agreements. It cannot exceed 20 working days for employees in non-management positions or 45 working days for managing employees. The employers must give at least 20 working days' notice of termination. During this notice period, the employee is entitled to receive his salary and all other statutory rights.

6.3. Termination without notice (summary dismissal)

Severe breach of the employee's duties

Termination without notice (summary dismissal) is only lawful if there is a severe or repeated breach of the employee's duties, confirmed under a disciplinary review, or if the employee is held under temporary detention (preventive arrest) for more than 30 days. Also, notice is not required where an employee is under probation period and is dismissed for being professionally unfit.

Forfeiture after 30 days

If there is a valid reason for a summary dismissal, the employer must give the employee notice of the dismissal within 30 days of the event or discovery of the circumstances giving rise to the dismissal. If the employer fails to do this, they forfeit their right to dismiss the employee.

6.4. Requirement of a valid reason to terminate the employment

General rule and exceptions

Unlike the employee, the employer must have a lawful reason to terminate an employment contract, unless the employee is under probation.
The definitions of valid reasons for dismissing an employee are set out in the Labour Code.

Reasons of dismissal

The first reasons are connected to the employee's person specifically (reasons that imply the employee's misconduct or inadequacy) such as:

— a disciplinary sanction, where an employee has engaged in severe or repeated misconduct, and/or breached rules of the individual employment contract, collective labour contract, internal regulation or labour discipline rules regulation - Article 61 letter a) of the Labour Code;
— (where the employee is under temporary detention (preventive arrest) for a period exceeding 30 days, as provided by the Code of Criminal Procedure;
— (where the competent medical investigation body has established the employee's physical or psychological inadequacy for performing their job tasks;
— where the employee fails to meet the professional requirements for his/her position (professional inadequacy);

The second reasons *are not connected to the employee's person*. These occur for objective reasons that cannot be attributed to the employee, such as the removal of the position/job due to economic difficulties, technological transformations or activity reorganisation. A dismissal in this instance may be individual or collective.

Suitable alternative employment

In cases where the employee's dismissal or termination has not arisen as a result of misconduct, the Labour Code obligates employers to offer the employee alternative employment prior to dismissing the employee. Such cases would include those where a competent medical investigation body has established that an employee is physically or psychologically inadequate in performing job tasks; where the employee does not meet the professional requirements for his/her position; or where an unlawfully dismissed employee, whose position has been filled by a new employee, is reinstated.

Criteria for the selection process

Suitable, alternative employment criteria will take into account the employee's professional training or medical capacity.

Re-engagement

Re-engagement is possible, except for employees whose employment was terminated based upon a disciplinary review where such re-engagement cannot be made within 12 months from such termination, during when such sanction is still deemed as valid. Further, re-engagement is not possible in the next 45 days from when a position was made redundant.

6.5. Collective Redundancies

Definition

Terminations of employment are classified as "collective redundancies" if the number of redundancies over a 30 day period is:

— at least 10 employees if the company employs more than 20, and less than 100 workers;
— at least 10% of the number of employees if the company employs at least 100 but not less than 300 workers;
— at least 30 employees if the company employs 300 workers or more.

Redundancy social plan, information, consultation and assistance

In these cases, the employer must consult, the Labour Union and establish a redundancy social plan. In addition, the employer must offer employees alternative professional training programs and inform their territorial labour inspectorate of any collective redundancies. If there is no labour union, the employer must consult with the employees' representatives.

Alternative measures proposed by the labour union

If the employer intends to make collective redundancies, it is obligated to initiate and consult with the relevant labour union or the employee's representatives, in due time, for the purpose of reaching an agreement. In return, the labour union or the employees' representatives may, within 10 days of receiving notification of collective redundancies, provide a proposal that aims to avoid or limit the number of redundancies. The employer must provide reasoned answers to these proposals in writing within five days of receiving them.

Sanctions for failure to follow the procedure

If the employer fails to follow this collective dismissal procedure, any dismissals may be considered null and void. However, please note that the Labour Code does not contain any express provision in this respect.

6.6. Severance payments

Compensation in case of dismissal for reasons non-attributable to the employee

There is no statutory provision for severance payments in cases of redundancies, however they may be provided for by employer internal regulations or collective bargaining agreements.

6.7. Involvement of the works council (labour union)

Optional involvement of the labour union

In accordance with the relevant provisions of the Romanian Labour Code, the employer must consult the labour union or employee representatives, about decisions which may substantially affect the rights and interests of employees. However, as the Labour Code does not specifically state which decisions require consultation, when employment termination is carried out individually (rather than collectively), labour union involvement is optional. Although, the employee concerned may request the labour union's involvement in dismissal procedures.

Collective redundancies

Collective redundancies are defined in section 6.5. above.

6.8. Employees with special protection against termination of employment

Protected groups with a high standard of protection against dismissal

In Romania, employers may not terminate the employment contract of the following persons:

— employees who are in temporary work and incapacitated (established through a medical certificate);
— employees on quarantine leave;
— in cases where the employer has knowledge that a female employee is pregnant;
— during maternity leave;
— during leave to raising a child under the age of two years, or, in the case of a handicapped child, under the age of three years;
— during leave for nursing a sick child under seven years, or, a handicapped child under 18 years;
— during annual leave.

Dismissal requires the prior consent of the labour union

No consent of the labour union is required to for dismissal.

6.9. Changing terms and conditions of the employment contract

Definition

In accordance with the provisions of the Labour Code, the following changes will be considered an amendment to the employment contract:

— an amendment to the duration of the contract;
— changing the place of work;
— changing the employee's position;
— modifying the work conditions;
— modifying the salary; or
— amendments to work and rest durations.

The principle of mutually agreed amendment

The terms and conditions of an employment contract may be amended if both parties agree and express these changes in an additional document annexed to the individual employment contract.

Exceptions

Under the Labour Code, the employer may unilaterally modify the terms of employment by changing the place of work of an employee on a temporary basis , when: (1) delegating an employee to another location, of the same employer, for maximum 60 days in 12 months, this may be extended every 60 days, with the employee's consent; or (2) detaching the employee to another location (secondment) for a maximum of one year for objective reasons, this may be extended every six months with the parties' consent. with these members of the trade union organisation or the works council.

7. Business transfer

Automatic transfer of contracts of employment

If a business (or a part thereof) is transferred to another business, the employment contracts are also automatically transferred to the new business. Therefore, all the rights and obligations of employers and employees that existed up to the day of transfer continue to remain in effect and the new employer shall assume all the existing rights and obligations (unchanged in form or extent).

No reason for termination

The transfer of a business (or part thereof) alone does not constitute a reason for either the transferor or transferee to dismiss empoyees either individually or collectively.

Duty to inform employees

Both the transferor and the transferee must consult the labour union or employees' representatives about the legal, economic and social implications the transfer may have on employees. This must occur prior to the transfer transpiring.

8. Industrial relations

8.1. Labour unions and the management of the business

Freedom to establish and join a labour union

In Romania, employees have a fundamental, constitutional right, to freely establish, and to be a member of a labour union. Moreover, a labour union has the right to represent its members in labour disputes against an employer, before courts or governmental authorities, provided that it is organised as an association and registered in accordance with the Labour Union Law and the Labour Code.

The powers of labour unions

Labour unions may independently decide their mode of representation, generally they elect one or several members as labour union representatives.

Labour unions and their representatives have various statutory rights which must be exercised in negotiations, mediations, arbitrations or conciliation procedures, petitions, protests, meetings, demonstrations and strikes.

Labour Unions have:

— the right to protect their employees' rights;
— the right to undertake any action provided for by law, including the right to take legal actions on behalf of their members (provided they have the members' written approval);
— the right to submit draft labour laws to the legislator;
— the right to participate in board of directors meetings to discuss

professional, economic, social, cultural or sports matters regarding the employees;
— the right to receive, from the employer or employers' organisations, the necessary information to negotiate collective bargaining agreements, or agreements regarding employment relationships; as well as information regarding the establishment and use of funds to improve employee labour conditions, work protection and social insurance;
— the right to be consulted with about any employer's decisions which may substantially affect employees' rights and interests;
— the right to be consulted with and to submit counter-proposals in cases of collective dismissal;
— the right to be consulted with and to express its consent when employer decisions impact employees' work schedules and time off duty;
— the right to be consulted with about workplace safety and health measures.

Collective agreements

Collective agreements will be concluded, upon a negotiation between the employer and either the employees representatives or the union representing such employees.

8.2. Employee representatives

Employees' representatives

In larger undertakings (with 20 or more employees, and where no employee is a members of a labour union), employee representatives may represent employees' interests. The number of representatives must be agreed with the employer and is dependant on the total number of employees. The right to elect and to be elected as an employee representative applies to all employees, who have full legal capacity.

Rights of the employees' representatives

Employee representatives possess the right to:
— observe employee's rights of employees, in accordance with applicable legislation, applicable collective bargaining agreement(s) and any the internal regulations;
— participate in the drafting of internal regulations;
— advocate for the interests of employees regarding the salaries, work conditions, work programs, time off duty, and any other occupational, economic and social interests arising from the employment relationship;
— inform the competent labour authority of the employer's non-compliance (if any) with law or collective bargaining agreement;
— to negotiate the collective labour contract in accordance with the law.

Employees' representatives in the supervisory board

As mentioned before (see 8.1. and 8.2. above), employee representatives or labour union representatives have statutory rights to participate in meetings of the board of directors to discuss professional, economic, social, cultural or sporting matters affecting employees.

Rights of consultation

Employees representatives have the right to be consulted prior to the enactment by employer of its internal policies handbook, or on any recent or probable evolution of employer activity, and workforce, or prior to any TUPE transfer of employees, or for collective negotiations.

Sanctions

Employees representatives not being consulted on any recent or probable evolution of employer activity and workforce, may trigger a fine of RON 2500 to 25000 (EUR 530 to 5300), on any TUPE transfer of employees, may trigger a fine of RON 1500 to 3000 (EUR 320 to 640), and on collective negotiations a fine of RON 5000 to 10000 (EUR 1060 to 2120).

8.3. Release from work to conduct labour union employees' representative activities

Suspension of the employment contract for leaders of labour union

For the entire duration, that an individual is elected within a salaried management position of a labour union, his individual employment contract is suspended. However, the employer can only employ a temporary replacement for a fixed period and must preserve the employee's job until the employee's union duties are completed.

20 hours per month for employees' representatives

The number of hours within the normal work schedule for the employees' representatives intended to fulfill the mandate they have received is established by the applicable collective labour agreement or, in its absence, by direct negotiation with the employer.

8.4. Financial and/or technical assistance of works council activities?

In Romania, work councils are mandatory only in cases of community-level undertakings, however in ordinary employment cases, the employer must offer and pay for the necessary office space and resources required by labour union officers to conducting their lawful activities.

Furthermore, each member of a trade union authority retains the right to remuneration for the time in which he/she needs to perform temporary activities connected with his/her function in the trade union organisation, if such activities cannot be performed outside of working hours.

8.5. Collective bargaining agreementsassistance?

Collective agreements

Collective bargaining agreements are entered into between the employer or the employers' organisation, and the employees (via their representatives/ who are represented through the labour union, or by another means provided for by law). These agreements establish labour conditions, salaries, and other rights and obligations arising from employment relationships. Collective bargaining agreements are concluded at an employer level or groups of employers.

The minimal character of the rights conferred by the applicable collective bargaining agreement

Labour laws mandate that a collective bargaining agreement cannot interfere with, or reduce an employees' rights from those of the collective bargaining agreement at a national level (if existing).

9. Employment Disputes

9.1. Employment Disputes in general

Material competence of the district tribunals

Employment disputes are primarily heard by district tribunals and in accordance with judicial legislation, employment disputes are tried by specialised employment sections of courts.

No possibility for arbitration

In accordance with the relevant Romanian legislation, an employment dispute can only be resolved by competent courts, in accordance with labour conflict laws and the Code of Civil Procedure.

Conciliation committee

Apart from courts, there is no conciliation committee under current legislation leading to the settlement of individual employment disputes.

9.2. Disputes related to collective agreements

Disputes relating to the commencement, performance or conclusion of collective bargaining that may result in strikes, must be resolved before a conciliation representative of the Ministry of Labour, Social Solidarity and Family. When conducting conciliation proceedings, both parties may designate representatives of two to five persons each to appear and participate in conciliation proceedings.

Where a labour dispute is not settled following this conciliation, the parties have the right to mutually agree to proceed to a mediation procedure organised by the Office of Mediation and Arbitration of Collective Labour Disputes.

Throughout the duration of a collective labour dispute, the parties may, by consensus, defer to arbitration organised by the Office of Mediation and Arbitration of Collective Labour Disputes. The arbitrator's decisions are binding on the parties and will complement the collective labour agreements. Mediation or Arbitration becomes mandatory if parties mutually agree before or during the strike.

The Romanian system of social security covers the following circumstances: maternity, old age, sickness, invalidity, death and unemployment.

10. State Benefits

General background

The Romanian system of social security covers the following circumstances: maternity, old age, sickness, invalidity, death and unemployment.

10.1. Contributions for social insurance and taxes

Social Security

SOCIAL SECURITY CONTRIBUTIONS	
Paid by employee	**Paid by Employer**
Social insurance contribution - 25% (the income amount to which this contribution is applicable may vary depending on the source of income);	Social insurance – 4% for unusual working conditions or 8% for special working conditions* see note below
Health insurance contribution - 10% (this amount may change depending on the source of income, level of income and/or the type of work)	Work insurance contribution – 2.25%

Termination by an employee

The employer should withhold the employee's social security contributions from their salary and pay these contributions monthly to the Romanian State budget.

Taxes

After social security contributions are deducted, 10% of the employee's income should be withheld by the employer.

* Labour authorities have discretion to determine whether a work place qualifies as having "unusual" or "special" conditions. Commonly, work conditions are labelled as unusual when the employee is exposed to potentially toxic vapours, loud noise, electromagnetic waves, etc. Generally, it is accepted that work conditions are special when the employee works with heavy explosives, in nuclear plants, or undertakes works that require 100% time underground.

10.2 Health Insurance

In Romania, the state system consists of a (compulsory) basic health coverage and an (optional) supplementary insurance coverage. The basic coverage provides for medical treatment, medicines, sanitary materials and medical devices.

Basic and supplementary health coverage

Apart from the state system, private insurance companies cover a variety of health services under individual insurance contracts.

Private insurance companies

10.3. State pensions

The Romanian pension system (i.e. 1st pillar pension fund) is organised and guaranteed by the state. The system ensures that all participants have an equal right to access pensions.

The pension public system

In Romania, the when men reach 65 and women reach 62 they are entitled to the regular pension, provided that they have accumulated at least 18 years of service and are not currently employed.

Regular pension

The key factors affecting the calculation of a person's pension entitlements are the person's age, type of work, the duration of their pension scheme status, and their working life salary.

Calculation of the pension

10.4. Private pensions

The private pension system in Romania is split between two types of pension funds referred to as "pillars". These are 2nd pillar pension funds (or "mandatory pensions") and 3rd pillar pension funds (or "voluntary pensions"), with the first pillar being the state managed pension system.

The private pension system

2nd pillar: The mandatory private pension system is a defined contribution system, which is only open to employees who pay social security contributions. At its inception, the participation was mandatory for any employee under the age of 35, and voluntary for employees between 35 and 45 years of age. The National House of Pensions, centralises, collects and pay pension fund contributions. Authorised pension management companies manage mandatory pension funds.

2nd pillar

3rd pillar: The voluntary, private pension system is also a defined contribution system, however is open to anybody earning an income. The contribution to the pension fund may be made by employers and directly by the participants. Authorised pension management companies, life insurance companies or assets management companies manage voluntary pension funds.

3rd pillar

10.5. Unemployment benefits

Unemployment benefit

The state supports unemployed persons through various employment incentive programs and monetary benefits.

To be entitled to financial support, unemployed persons must have contributed to the Romanian State budget for unemployment benefits for at least 12 of the previous 24 months at the time of request for financial support. The unemployment benefit is 75% of the social reference indicator (currently RON 500) plus 3 to 10% of employee average gross basic salary for last 12 months of employment, per month, and the duration of the unemployment benefit depends on the length of time that the unemployed person previously contributed to the Romanian State budget for unemployment benefits and does not exceed 12 months.

Russia

1. Hiring Employees

1.1. The Employment Contract

Written form required

Employment contracts should be in writing and should be executed by the employee and an authorised representative of the employer. Generally, amendments can be made to employment contracts if both parties agree to them and they are made in writing.

Unilateral amendment of employment terms by the employer is possible in some cases. However, implementation of such amendments requires the employer to fulfil a special procedure.

Oral contract also valid

However, an employee who starts working without having a written agreement in place is nevertheless to be treated as an employee, if the employer knowingly allowed the employee to perform his or her duties, or directed the employee to start working.

Entry into force of the contract

An employment contract will come into force on the date that it is signed by the last party. This is the case unless otherwise stipulated in the contract or if the employee's actual start date is earlier (with the employer's consent or upon his or her instructions).

Terms to be specified in the contract

The Labour Code specifies a wide range of provisions that should be included in the employment contract. These include:

- the full name of the employer (including Tax ID) and the employee (including passport data);
- the full name of the employer's representative and document confirming his or her authority;
- place and date of the contract's conclusion;
- the place of employment;
- the date employment commenced;
- if it is a fixed-term contract, the period of validity and legal grounds for

the contract being concluded for a fixed term, in accordance with the legislation of the Russian Federation;
— full details of the position and qualifications required;
— full details of the employee's remuneration and working hours;
— conditions of employment (office, whether it involves travel, etc.);
— information on any compensation for specific working conditions (harmful, dangerous), if applicable; and
— the social benefits to be provided to the employee.

Position of the employee

It should be noted that some social benefits and/or limitations are provided by law for some types of employment positions. Thus, in many instances the term of the position should correspond with the official classification established by the Government of the Russian Federation.

Term of the employment

Employment contracts may be concluded for an indefinite period of time or for a fixed period of time (not exceeding 5 years) in cases stipulated by the legislation of the Russian Federation.

Probation period

A probation period of up to 3 months may be specified in an employment contract, although this maximum limit can be extended to 6 months for certain executive staff including directors and chief accountants. A probation period cannot exceed 2 weeks if the contract's term is 6 months or less.

Choice of law

If an employee's duties are to be performed in Russia and the employer (or its branch/representative office) is located in Russia, the parties to the employment contract may not choose the laws of any other jurisdiction (besides Russia) to govern the contract. Therefore, Russian employment law also governs all foreign individuals, companies, and international organisations working in Russia, unless a specific regulation is applicable pursuant to a federal law or international treaty.

Jurisdiction clause

If the employment contract is subject to Russian legislation, it will be within the competence of the Russian courts and such jurisdiction cannot be excluded.

1.2. Contracts for services

No substitute for employment contracts

Services may be rendered under a service contract (various types). Individuals providing services under a service contract are not protected by the labour law and do not enjoy employment-related benefits such as annual paid vacation, paid sick leave, etc. Russian law prohibits service contracts from being concluded in the place of employment contracts. An individual may challenge the conclusion of a service contract in place of an employment contract. If the court considers that the relationship between the individual

and the company is in fact a relation of employment, it will convert the service contract into an employment contract.

1.3. Employment of foreign nationals

Corporate permit

Russian legislation provides that all companies intending to employ foreign nationals to carry out work or services in the Russian Federation must first obtain a corporate permit for the use of foreign workforce in Russia. This requirement does not apply to some categories of employees, including highly qualified specialists and foreigners for whom an entry visa is not required.

Individual work permit

In addition to the requirement for a corporate permit, foreign individuals need an individual work permit. Individual work permits are obtained on behalf of individual foreign employees by their employers, based on their corporate permits, for the employment of foreign personnel. Individual visa invitations are then issued by the relevant territorial division of the Ministry of the Internal Affairs of the Russian Federation. An individual work permit is issued for a term of 1 or 3 years, although they are renewable.

There are some exceptions/specific requirements for particular categories of foreign nationals stipulated by law or international treaties (highly qualified specialists, foreigners for whom an entry visa is not required, etc.).

Such regulations apply to all foreign nationals working in Russia, irrespective of their level of seniority.

Further obligations for companies employing foreign workers

In addition to the requirement to obtain corporate and individual work permits, employers that employ foreign nationals are subject to a number of other ancillary obligations under the relevant legislation. For example, there is an obligation to notify the relevant territorial division of the Ministry of the Internal Affairs of the Russian Federation about the conclusion and termination of employment and services contracts with foreign employees; liability for deportation costs; the need to report to the relevant Russian authorities any breaches of the terms and conditions of employment contracts by foreign employees, etc.

1.4. Contracts for services

Special rules on termination of employment

A contract for services may offer an alternative to an employment contract. In this case, the service provider must be authorised to independently act or perform the services provided. It must be noted that such an agreement cannot be entered into for the purposes of avoiding entering into an employment contract. Furthermore, regardless of whether or not a contractor is employed under a contract for services, if the contractor is

integrated into and subject to the contracting organisation's control then, the Labour Authority will likely consider that he or she is an employee. In addition, directors/managers of trading companies may be 'hired' under a 'management contract'.

2. Remuneration

2.1. Minimum wage

Statutory minimum wage

The parties to the employment contract should agree on the amount of remuneration and other benefits and these should be stated in the employment contract. The amount of remuneration cannot be less than the amount of the minimum monthly salary as established by federal law (since 1 January 2018, 2018 - 9,489 Russian Roubles = approx. EUR 135), some regions can provide for a higher amount (e.g. in Moscow it is RUB 18,742 = approx. EUR 266).

To be paid at least in 2 instalments per month

The Labour Code provides that salaries must be paid in at least two instalments per month not later than 15 days from the end of the period for which it is paid; these payments should be calculated taking into account the time actually worked by the employee.

2.2. Pay increases

For budget-funded organisations, the right to receive pay increases, and the rules regarding such increases, are established by legislation.

Commercial entities

For commercial entities, pay increases are fixed by collective bargaining agreements, individual employment contracts and/or by internal company regulations. Theoretically, pay increases in commercial entities should correspond to the increase in consumer prices. Provisions reflecting the mechanics of these increases should be provided for in the documents mentioned above (i.e. collective bargaining agreements, employment contracts and/or internal regulations).

2.3. Reduction of wages

Imposing new terms under a new organisational scheme

The remuneration of the employee is a material term of the employment contract and can, as a matter of principle, only be changed by the agreement of the parties. However, if the employer imposes new terms under a new technological or organisational scheme, there is a special procedure to follow that may either lead to a change in the employee's terms and conditions or to termination of the employment.

Duty to notify the employee

The employee has to be notified in writing 2 months prior to a change in the terms of employment contract.

Duty to offer suitable alternative employment

If the employee does not agree to the new terms, the employer has to offer him or her an alternative equal position on the same terms and conditions (subject to his or her qualifications and condition of health), or, in the absence of an equal position, a lower position within the company. If the employee does not agree, the employer can terminate the employment relation in accordance with the general provisions of the Labour Code (including payment of termination compensation equal to the employee's average salary for two weeks) and then take on a new employee under different terms and conditions.

3. Working time

3.1. Standard working hours and breaks

Daily and weekly standard working hours

The normal working week may not exceed 40 hours, which amounts to 8 hours per day when distributed evenly over a 5 day working week.

Lunch break

Employees are entitled to a lunch break which should not be less than 30 minutes or more than 2 hours. Lunch breaks are not included as working time. The time and length of the break should be determined by the provisions of a collective bargaining agreement, an individual's employment contract and/or by internal labour regulations.

Additional breaks

There are a number of exceptions, such as granting additional breaks for women with small children, for those working in dangerous/hazardous conditions, etc.

3.2. Minimum rest periods

Minimum weekly rest period

The minimum weekly rest period may not be less than 42 consecutive hours.

3.3. Overtime work

Written consent of employees required

Employees who are required to work overtime must give their consent to do so in writing.

Limitation on overtime work

Employees cannot work more than four extra hours on any two consecutive working days and the total number of hours of overtime cannot exceed 120 hours per year.

There are a number of other restrictions in relation to the working hours of specific types of employees (e.g. disabled, pregnant, under-aged, students, etc.) as well as those in certain types of employment (e.g. night work, shift work, hazardous/dangerous manufacturing, etc.).

Further restrictions for certain types of employees

Overtime pay is set at time and a half for the first two hours and double time for each subsequent hour.

Compensation for overtime work

3.4. Working during the weekend and on public holidays

Working on weekends and public holidays is generally prohibited, although there are certain exceptions, such as if this is necessary in order to prevent emergency situations or to maintain production.

General rule with exceptions

However, if an exception arises, work is only lawful on such days with the written consent of the employee (except in some emergency situations stipulated by the law) and is subject to the limitations for certain types of employees regarding overtime work, as set out above.

Written consent of employees required

When working on holidays or at weekends, employees are entitled to be paid at least double time or to be paid normally and receive an extra day off.

Compensation

4. Paid annual leave (holiday)

4.1. Minimum holiday entitlement

The minimum statutory paid holiday entitlement is 28 calendar days per year, although longer periods can be agreed between the employee and employer.

Minimum holiday entitlement

The holiday may be used in parts, provided that one part is at least 14 consecutive days.

Holiday consumption

4.2. Entitlement to additional paid holiday

In some situations, employees enjoy entitlement to additional paid holiday (e.g. employees working in harsh climates, dangerous working conditions, employees having an open-ended working day regime, etc.).

4.3. Forfeiture of the holiday entitlement

An employee cannot forfeit his or her holiday entitlement. Employees should ensure that they use all of their holiday entitlement in the given year. In

Transfer to the next year only in exceptional cases

exceptional cases, where an employee's leave negatively impacts upon the operations of the company, the holiday entitlement may be carried forward to the next year (with the written consent of the employee), but the holiday must then be used within that year.

4.4.Payment in lieu of holidays?

Compensation for unused holidays is only available where holiday in excess of the 28-day statutory minimum has been agreed upon, but the additional days remain unused by the employee. Compensation for unused holidays is also paid on the day of dismissal.

5. Sick pay

Sick pay

When an employee is on sick leave, the employer is required to pay him/her a temporary disability allowance for the period of sickness, provided the employee has submitted a medical certificate in the required form. This allowance is calculated on the basis of the average monthly salary over a period of two years and is capped at a specified amount.
The first three days of an employee's temporary disability period are paid by the employer out of its own funds. Any additional days are then funded at the expense of the Social Security Fund of the Russian Federation.

6. Termination of Employment

6.1. Formal requirements to be observed by the employer

Written form required

The employer must give notice in writing and observe any statutory notice periods and other procedural or material requirements that may apply in a particular case. However, there are no general statutory notice periods that would apply in all cases where the employer gives notice to the employee.

General Director

As a general rule, a General Director may be dismissed without any notice unless provided for otherwise in his/her employment contract.

Redundancy

If the employee is dismissed by reason of redundancy, the employe
r has to issue a written order indicating the reason for the dismissal. The employee must be notified by the employer in writing, and against signed receipt, of an upcoming dismissal not less than 2 months prior to the expected dismissal day. For details relating to redundancy payments, see section 6.3.

The employer may have to inform and consult with the trade union prior to the dismissal (see section 6.4.).

Duty to inform and consult with the trade union

6.2. Grounds to terminate the employment

An employment contract may be terminated only on one of the grounds provided for by the Labour Code. The most common grounds for termination include:

Employer may terminate employment only on the grounds provided for by the Labour Code

- liquidation of the employer's business;
- staff redundancy;
- lack of qualification (this does not extend to poor performance) of the employee, as confirmed by the results of a formal attestation procedure;
- repeated and systematic breach of job duties after disciplinary action has already been taken, or a single gross violation of job duties;
- absence from work for more than four consecutive hours without a valid reason;
- intoxication (alcohol or drugs), which must be medically verified;
- conviction for theft confirmed by a court judgment; and
- unauthorised disclosure of confidential information.
- There are additional grounds for terminating the employment contracts of executives (that is, where a contract is in place (see also Section 1):
- bankruptcy; and
- further grounds as specified in the employment contract.

6.3. Redundancy payment

In the case of redundancy, the employer must pay the employee severance payment equal to the employee's monthly average salary and subsequently, if the employee fails to find new employment, the employer may be obliged to pay 2 further monthly average salaries.

1 – 3 months' pay

6.4. Involvement of the trade union

Trade unions closely participate in the process leading up to the termination of employment relationships. Specific procedures may be prescribed in collective bargaining agreements and may vary from case to case. The following paragraphs set out the general legislative framework for the involvement of trade unions.

Collective agreements may establish special rules

Where a trade union exists, the employer is required to notify the trade union of terminations based upon numerous grounds. In the case of the dismissal of a trade union member for certain reasons (e.g. redundancy), the employer has to present to the trade union the draft of the termination order setting out the grounds for the termination. In a redundancy situation, the

Notification of the trade union

trade union must be notified 2 months (in the case of mass redundancy: 3 months) prior to the dismissal of any employees.

Consultation with the trade union

The trade union must give to the employer a reasoned opinion on the proposed dismissal within 7 days of receiving the draft termination order on the dismissal of a trade union member. If the trade union objects to the dismissal, the employer must consult with the trade union within a period of 3 days.

No right to veto the dismissal

Regardless of the outcome of the consultation, the employer can go ahead with the dismissal of a trade union member (provided that it is not earlier than 10 days before the first notification of the trade union). The decision can be appealed against before the State Labour Inspection or courts.

6.5. Employees with special protection against termination of employment

Protected groups

Several groups of employees enjoy special protection against termination of their employment. This includes:

— pregnant women;
— mothers with young children (under three years of age);
— single mothers with young children (under 14 years of age or under 18 years of age, if disabled);
— employees below 18 years of age; and
— trade union leaders and their deputies.

Pregnant women and persons with family obligations

Pregnant women may only be dismissed if the employer is to be liquidated. The following cannot be dismissed at the initiative of the employer unless dismissed due to liquidation of the employer or a disciplinary dismissal: mothers with young children (under three years of age), single mothers with young children (under 14 years of age or under 18 years of age, if disabled), other individuals raising the above mentioned children without a mother, and a parent who is the sole bread-earner of a disabled child under 18 years of age or who is the sole bread-earner in a family with three or more young children, one of whom is under three years of age.

Right of priority in case of redundancy

Working students, war veterans and employees with more than 2 dependants have a priority right to remain employed in cases of redundancy.

Trade union leaders and their deputies

Trade union leaders and their deputies may only be dismissed with the approval of the superior trade union. Staff representatives (see Section 8) cannot be dismissed during the period in which they perform this function (with certain exceptions).

7. Business transfer

No effect on employment relationships without special agreement

The concept of a business transfer is under-developed in Russian employment law since business transfers are not very common. According to the general rules, the employees are deemed to still belong to the transferor of the business unless an agreement between all three parties concerned (i.e. transferor, transferee and employee) provides otherwise.

8. Industrial relations

Trade unions and staff representatives

Apart from trade unions, which exist mainly in large industrial enterprises and some specific industries (e.g. steel plants, docks, air traffic control), Russian employment law also allows employees to establish representative bodies at an enterprise, although this is not a statutory requirement. Staff representatives can also enter into negotiations relating to collective bargaining agreements. In practice, small and medium size enterprises are not significantly affected either by trade unions or by the activities of staff representatives.

Participatory rights of trade unions/staff representatives

Trade unions and staff representatives do not have direct rights regarding the general management of a business. However, the Labour Code gives staff representatives explicit rights to request information and documents concerning employment matters, to have consultations on internal employment documents, to check an employer's compliance with employment legislation and collective agreements, etc.

Entitlement to paid leave?

Staff representatives are not entitled to carry out their activities during normal working hours. Furthermore, they are not entitled to paid leave from work to perform their duties. In principle, the same applies to trade union representatives, although there are some exceptions.

Administrative support for trade unions only

The employer is not obliged to reimburse the costs that the staff representatives incur by performing their function, although this may be provided for in the relevant collective bargaining agreement. The employer is not directly required to provide staff representatives with an office or any other material support, although legislation generally requires the employer to cooperate with the staff representatives. However, in effect, this means little more than working together amicably. In contrast to this, trade unions are entitled to receive some administrative support from the employer.

Collective agreements

The staff representatives/trade union and the employer may enter into a collective bargaining agreement that directly affects the rights and duties of employees, even without incorporating these terms into the employees' individual employment contracts.

9. Employment Disputes

9.1. Individual employment disputes

Courts

Individual employment disputes may be resolved either by commissions for employment disputes or by the appropriate Russian court.

Commission for employment disputes

Commissions for employment disputes may be organised at an enterprise or at a branch of an enterprise and should consist of equal numbers of representatives of the employer and the employees. Representatives of employees are elected by the employees. Representatives of the employer are appointed by the management of the employer. Employers have to make facilities available to the commission such as rooms and telephones, etc.

Decision can be appealed at the court

The commission reaches a decision by a simple majority of votes and the decision of the commission is binding unless it is appealed to an appropriate Russian court of general jurisdiction.

9.2. Collective employment disputes

Conciliation commission and mediator

Collective disputes regarding collective bargaining agreements should be considered first by the conciliation commission or by a mediator. The commission is made up of an equal number of employee and employer representatives, who try to resolve the dispute through mediation.

Arbitration

If mediation fails to resolve the dispute, it may subsequently be submitted to arbitration if the parties have agreed upon this method of dispute resolution in the collective bargaining agreement or in a separate agreement. The arbitrator is appointed by a state authority, the State Labour Inspection.

10. State Benefits

General background

The social security system covers the following risks: sickness, pregnancy, maternity leave, disability and some other risks.

10.1. Contributions for social insurance

Social tax

When paying the employee his or her salary the employer shall also pay contributions into the social funds on top of the employee's salary, The rates of the monthly contributions are as follows:

— **State pension fund:** (i) at a rate of 22% in respect to the annual salary amount of RUB 1,021,000 and (ii) at a 10% rate in respect to the annual salary amount exceeding the above threshold.

— **Social Insurance Fund:** at a rate of 2.9% (1.8% for foreign nationals staying temporarily in Russia) in respect to the annual salary amount of RUB 815,000. Salaries above the cap are not subject to contributions.
— **Medical Insurance Fund:** at a rate of 5.1%. Contributions to this fund are not capped.

Work-place accidents

Employers should also pay a certain amount to cover disability/injury risks at the work place. This figure varies from 0.2% to 8.5% of the monthly salary, depending on the risk category of the employer.

10.2. State pension

Retirement age

The normal retirement age for females is 55 years and 60 years for males, although this may depend on the type and place of employment.

Calculation of the pension

The calculation of state pensions depends on various different factors and is complicated. It generally depends on a constant term of employment, general terms of previous employment, average salary, etc.

Private pension systems

Private pension funds operate in Russia, though they are currently not widely used.

10.3. Unemployment benefits

The state does support the unemployed. The term and amount of compensation for unemployment depends on various factors and is strictly regulated. Generally, it depends on the individual's previous employment and his or her average previous salary.

Recently, unemployment benefits have been paid for exclusively from the state budget.

Serbia

1. Hiring Employees

1.1. The Employment Contract

General conditions

The Labour Law (2005) requires that employees must:

— be a minimum 15 years of age; and
— fulfil requirements relating to performance of the particular job, as set out in the Labour Law and in the employer's rulebook on the organisation and systematisation of jobs (e.g. vocational attainment).

Persons under the age of 18

The employment of persons under the age of 18 requires written consent from their parents, adoptive parents or guardians. Such work must not pose a threat to their health, morals and education nor be prohibited by law. According to the Labour Law, the employment of a person under the age of 18 is possible only if the competent body for health protection confirms that the underage person is capable of performing the job and that the job is not harmful for his health.

Written form required

Employment must be based on an employment contract agreed between the employee and the employer. An employment contract must be in writing before the employee starts working and should include the following:

— name and registered office of the employer;
— employee's personal name and his permanent or temporary residence;
— type and level of qualification, or education of the employee necessary for carrying out the job for which the employment contract is concluded;
— job title and job description;
— place of work;
— type of employment (indefinite or definite period);
— duration of the employment contract for a definite period and the reasons why such employment was concluded;
— date of commencement of work;
— working hours (full-time, part-time or reduced);

— monetary amount of basic salary at the date on which the employment contract was concluded;
— elements for determining basic salary, work performance, salary compensation, increased salary and other income of the employee;
— deadlines for payment of salary and other income to which the employee is entitled; and
— duration of daily and weekly working hours.

The employment contract may also stipulate other rights and duties. All matters not stipulated by the employment contract will be governed by the Labour Law, the collective agreement and/or the labour rulebook, providing that the collective agreement and/or labour rulebook are not contrary to the Labour Law.

According to the Labour Law an employer who employs more than ten employees is obliged to issue a rulebook on the organisation and systematisation of jobs.

When starting work the employee must present the employer with the documents that state that the requirements for employment are fulfilled.

The employer is not allowed to demand data regarding the employee's family/marital status and intentions with regard to family planning, nor can it require any results for pregnancy tests as a pre-condition to employment.

The establishment of an employment relationship may not be dependent on the candidate terminating the employment contract with the employer.

Term of the employment

An employment contract must be for an indefinite or definite period. However, where this is not specified in the contract an employment contract is deemed to be for an indefinite period.

Employment established for a definite period shall automatically become employment for an indefinite period if the employee continues working for 5 working days upon the expiry of the fixed period employment.

If the employer fails to sign the employment contract with the employee, the employee shall be considered as employed for an indefinite period.

Annex to the employment contract

The employer may change the stipulated work conditions by adding to the employment contract annexes on the following situations:
— in order to transfer an employee to another appropriate job, as required by the process and the organisation of work;
— in order to transfer the employee to another workplace with the same employer;
— in order to assign the employee to an appropriate job with another employer;
— if the employer has enabled the redundant employee to exercise the specific rights as prescribed by the Labour Law;
— in order to change elements on which basis the basic salary, working performance, salary compensation, increased salary and other income is determined; or
— in other situations prescribed by the law, labour rulebook/collective agreement and employment contract.

An appropriate job position is defined as a job that requires the same kind and degree of professional qualification as stipulated in the employment contract.

If the employee refuses to accept the changes (items 1) to 5)) by annex to the contract, the employer shall be entitled to terminate the employee's employment contract.

Choice of law / Jurisdiction clause

The choice of law is not possible and, in general, it is not be possible to agree on another jurisdiction than the Serbian jurisdiction.

1.2. Contracts that do not constitute employment

In addition to the employment contract Labour Law provides for the following two types of contracts under which services can be rendered:
— contract of work for temporary and occasional jobs; and
— service contract

Contract of work on temporary or occasional jobs

The employer may choose to engage on a contract of temporary or occasional work (work that by its nature does not exceed 120 working days in a calendar year)
— an unemployed person,
— a part time employed person, or
— the user of an old-age pension.

Service contract

The employer is also entitled to enter into a service contract for services that are not within the scope of the employer's business including, for example, the independent production or repair of assets or independent, manual or

intellectual work. When making such a contract, the employee shall have the right to a pension, disability insurance and health insurance, which shall be paid by the employer.
According to the Law on Mandatory Social Contributions, the employer is obliged to pay the same contributions for pension and disability insurance as for employees on regular employment contracts.

1.3. Employment of foreigners

Work and residence permit

Foreign employees may only enter into an employment contract and be in proper employment if they obtain a work permit and a permanent or temporary residence permit.

Exceptions

Under the condition that a foreign national does not stay in Serbia for longer than 90 days within 6 months of their first entry into Serbia, no work permit is required in the following cases:

— if the foreign national is the owner, founder, representative or member of a legal entity's body registered in Serbia, in accordance with the law, and if he is not employed in that legal entity;
— if the foreign national is staying in Serbia in order to make business contacts or have business meetings and, without earning any money in Serbia, performs other business activities relating to the preparation of a foreign employer to start working in Serbia;
— if the foreign national is a lecturer or researcher who participates in organised professional meetings or research projects or performs work in order to present or implement various scientific and technical achievements, as well as his accompanying staff;
— if the foreign national personally performs temporary educational, sports, artistic, cultural and other similar activities, that is, he resides in Serbia due to a scientific, artistic, cultural or sport event organised by authorised organisations, state bodies or bodies of the autonomous province and local units of self-government, organisational and technical staff as well as his accompanying staff;
— if the foreign national is assigned to work in Serbia based on an agreement in relation to the purchase of goods, the purchase or lease of machines or equipment, the delivery, installation or repairs of such machines or equipment, or training to work on said machines; or
— if the foreign national independently or for the needs of a foreign employer is staying in Serbia for the purpose of equipping and exhibiting equipment and exhibits at trade and other fairs and exhibitions

1.4. Special rules for executives

Exceptions for managers or directors

Managing directors and other managers may enter into two types of contracts: (i) an employment contract and (ii) contract on the rights and obligations of a managing director (management contract).

When entering into a management contract, the director is entitled to remuneration and other rights, obligations and responsibilities in accordance with such agreement.

The director may establish the employment relationship either for an indefinite or fixed period.

2. Remuneration

2.1. Minimum wage

According to the Labour Law wages, and how they are calculated, shall be determined by the labour rulebook/collective agreement or by the employment contract. However, wages shall not be set at less than the minimum wage.

Decision on minimum wage

The Labour Law defines the minimum wage as net and that it shall be set per working hour. Minimum wage is determined by the decision of the Social-Economic Council not later than 15 September of the current year and it shall be applied as of 1 January of the next year.

According to the Decision on the minimum wage amount for 2018 ("Official Gazette of Republic of Serbia" no. 88/2017), the minimum wage shall be RSD 143.00 (net) (approx. € 1) per working hour.

Reduction of wages

If the employer wishes to pay minimum wage it must stipulate in the labour rulebook/collective agreement reasons for adopting a decision on the payment of minimum wage. After the expiry of six months, the employer must inform the representative trade union on the reasons for continuing to pay minimum wage.

3. Working time

3.1. Standard working hours and breaks

An employee´s standard weekly working hours are 40 hours a week. Employees under the age of 18 may not work more than 35 hours a week.

Weekly standard working hours

A working week usually has five working days and the employer must decide on the distribution of working time in a working week. As a rule, a working day lasts eight hours.

Daily standard working hours

All employees shall have a right to a break in a working day.

Breaks

The employer shall set the schedule of breaks in a typical working day. However, breaks may not be taken at the beginning or end of a working day and shall be included in the total working hours of the day.

Included in working time

Employees working at least six hours daily shall have the right to an at least 30-minute break per working day. Employees working more than four and less than six hours daily shall have the right to an at least 15-minute break per working day. The employees working over 10 hours daily shall be entitled to a break of a minimum of 45 minutes during the working day.

Relevant content

3.2. Minimum rest periods

An employee has the right to a daily rest period of at least 12 hours within 24 hours.

Daily rest periods

An employee has the right to a weekly break of at least 24 hours, to which the daily rest period is added. And, if it is necessary for him to work during his weekly break, he shall be given an additional 24-hour break in the following week.

Weekly rest periods

Employees who are unable to use the above mentioned rest period due to the fact that the work is performed in different shifts or due to the redistribution of working hours shall be entitled to a weekly rest period of at least 24 hours continually.

3.3. Maximum allowed working hours

According to Labour Law, the employer may reschedule the working hours where so required by the nature of the business activity, work organisation, better utilisation of the means of work, more rational use of working hours, and the execution of a specific task within the set time limits.

Redistribution of standard working time

Total working hours of an employee within 6 months in the course of a calendar year must not exceed the working hours agreed upon with the employee. In any case, the working time in the course of a week may not be longer than 60 hours. Such redistributed working hours shall not be treated as overtime.

Collective agreement may stipulate that the redistribution of working hours may last longer than 6 months, but no longer than 9 months.

3.4. Overtime work

According to Labour Law, employees shall perform overtime work at the employer's request in the following cases:

— in the event of a force majeure;
— if there is a sudden increase in the extent of work; and
— in other cases in which it is necessary to finish work within a time limit that has not been anticipated.

Maximum hours of overtime work

Employees must not work overtime for more than eight hours per week.

Employee shall not work more than 12 hours daily, including overtime work.

Special restrictions for certain groups of employees

The Labour Law affords special protection for employees working overtime, e.g. under-aged employees, female employees and single parents.

Compensation for overtime work

An employee is entitled to be paid his base wage and increased wage at the rate of at least 26% of the base wage for any overtime work.

3.5. Working during the weekend and on public holidays

Any employee shall have the right to a weekly break of at least 24 hours and, if the employee must work during his weekly rest, he is entitled to a minimum 24 hours' break during the following week (see 3.2 above).

3.6. Premiums for night-work and work on public holidays

The Labour Law provides that any employee shall have the right to an increased wage for work on public holidays to the amount of 110% of the base wage and, for work at night, if such work is not taken as part of the assessment when determining the base wage, 26% of the base wage.

3.7. Sanctions for not complying with working time legislation

The Labour Law provides that a labour inspector may file a motion for the instigation of offence proceedings if he finds that an employer and/or responsible person has failed to act in accordance with the law.

Penalties

Labour Law provisions indicate that any employer shall pay a fine for not complying with working time rules. The fines are as follows:

- RSD 600,000 to 1,500,000 (from approximately € 5,300 to € 12,600) per offence if the employer is a legal entity; and
- RSD 200,000 to 400,000 (from approximately € 1,700 to € 3,400) per offence if the employer is an entrepreneur.

Court proceedings

The employee, labour inspection or other competent authority may initiate court proceedings.

4. Paid annual leave (holiday)

4.1. Minimum holiday entitlement

Minimum holiday entitlement

Any employee shall have the right to annual leave each calendar year for a number of days as specified in the labour rulebook/collective agreement or the employment contract. They annual leave shall not be shorter than 20 working days. This legal minimum increases based on the following:

- contribution to work,
- work conditions,
- work experience,
- employee's professional qualification, and
- other criteria as stipulated in the general act and the employment contract.

An employee shall be entitled to take annual leave in a calendar year after a month of continuous employment as of the start of his employment with the employer. Continuous work shall also include a temporary impediment to work, as according to healthcare regulations, and paid leave. An employee is entitled to 1/12 of the annual leave for each month of work in a calendar year in which the employment started or ended.

In the event of termination of employment, the employer shall pay compensation for unused annual leave (damage compensation) to the amount of the average salary for the previous 12 months, proportionate to the number of days of unused annual leave for the employee who did not use the annual leave in whole or in part.

The employer shall set the schedule of annual holidays according to the needs of its business and after consulting with the employees. The employer may change the time for taking annual leave if this is necessary for operational reasons. However, such alteration must be made at least five working days prior to the day determined for the start of annual leave.
The annual leave may be used at once or in two or more parts, if so agreed with an employee.

If an employee uses the annual leave in parts, the first part shall be used in a period of at least two consecutive working weeks during the calendar year, while the remainder shall be used by June 30th of the following year at the latest.

An employee who did not wholly or partially use the annual leave in a calendar year due to pregnancy leave, maternity leave and leave for a special care of a child may use the whole annual leave until June 30 of the following year.
While taking annual leave, any employee shall be entitled to receive wage compensation in accordance with the Labour Law.

Annual leave has to be used

An employee may not waive the right to annual leave, nor may such right be denied to him, nor may it be replaced with financial compensation, except in the case of termination of employment in accordance with the Labour Law.

5. Sick pay

The Labour Law classifies sick leave as paid leave and the employee is entitled to salary compensation.

The employee is also entitled to salary compensation due to his temporary incapacity to work for a period of up to 30 days:

Disease/injury

— to the amount of 65% of the average salary calculated for 12 months up to the onset of the incapacity to work – in the event that the incapacity to work is caused by illness or injury outside work (providing it is not lower than the minimum salary stipulated in the Labour Law);

Accident at work

— to the amount of 100% of the average salary calculated for 12 months up to the onset of the incapacity to work – in the event that the incapacity to work is caused by a work related illness or injury (providing that it is not lower than the minimum salary stipulated in the Labour Law).

Medical certificate

According to Labour Law, any employee shall present to his employer, within three days from the beginning of his incapacity for work, a medical certificate showing the expected duration of incapacity to work. In the case

of serious illness, members of the employee's immediate family or other members of his household shall present to the employer the certificate mentioned above. If the employee lives alone, he shall present the certificate to the employer within three days of the sickness or incapacity ending.

If the employer has any doubts about the reasons for absence from work, it may file a request with the competent public health authority that the state of the employee's health be established.

6. Termination of Employment

6.1. Formal requirements to be observed by the employer

The procedure for employment termination by the employer depends on the reasons for termination:

— When the reason for employment termination is the employee's failure to achieve the required work results or lack of knowledge or skills, the employer may terminate the employment only if it has previously given written notice regarding deficiencies in the employee's work, if it has provided guidance and an appropriate deadline to enhance and improve work, and if the employee does not improve his work within the given deadline.

Lack of work results, knowledge or skills

If the employee fails to achieve the required work results or lacks knowledge or skills, the period of prescription is six months as of the day the employer learned about the breach and cannot exceed one year as of the facts that are the grounds for employment termination occurring.

The notice period cannot be less than 8 days and not longer than 30 days, depending on the duration of pension and disability insurance.

— When the reason for employment termination is a breach of a work duty or work discipline, the employer is obliged, prior to the employment termination, to notify the employee in writing on the reasons for the termination of employment and to allow the employee at least eight days to respond to such notification. The warning notice must stipulate the grounds for employment termination, the facts and evidence that show the existence of the reason for employment termination and the deadline for answering the warning notice. If the employee is a member of a trade union and obtains the trade union's opinion on the warning notice, the employer is obliged to consider such opinion. After expiry of the above period, the employer is free to terminate the employment contract.

Breach of work duty and work discipline

In case of a breach of work duty or work discipline the period of prescription is six months as of the day the employer learned about the breach and cannot exceed one year as of the facts that are the grounds for employment termination occurring.

Redundancy

— When the reason for employment termination is redundancy, the employer has to create a redundancy program in the following cases:
  - if, within a 90 day period, the employer finds that there will be no more need, due to technological, economic or organisational changes, for the work of 20 employees, regardless of the total number of employees;
  - if, within a 30 day period, the employer finds that there will be no more need, due to technological, economic or organisational changes, for the work of employees engaged for an indefinite period of time in companies with the following numbers of employees:
    – 10 employees of an employer who employs more than 20 and less than 100 employees who are engaged for an indefinite period of time;
    – 10% of the employees of an employer engaging a minimum of 100 and a maximum of 300 employees who are engaged for an indefinite period of time;
    – 30 employees with an employer employing more than 300 employees who are engaged for an indefinite period;

The redundancy program draft must be forwarded to the representative trade union organised in the employer's company and the National Employment Office in order to obtain their opinions. This must be done no later than 8 days as of the day the redundancy program draft is finalised.

The trade union must answer the redundancy program draft within 15 days of receiving it.

The National Employment Office must provide the employer with proposal for measures to prevent or decrease redundancies, i.e. provide retraining, additional training, self-employment and other measures for the new employment of the redundant employees.

The employer must consider the trade union's opinion and the measures proposed by the National Employment Service and inform them on its position within 8 days.

In case of employment termination for reasons of redundancy, an employer may not employ new employee in the redundant job position for three months as of the day of employment termination. The redundant job has to first be offered to a redundant employee.

The employer must pay to the employee all the earnings he is entitled to under the employment contract. The payment must be made at latest thirty days after the date of the termination of employment.

6.2. Limited reasons to terminate the employment

According to Labour Law, the employer may terminate the employment contract for reasons stipulated in the Labour Law. These reasons may be divided into the following groups:

Reasons for termination

— Reasons relating to the employee's work ability and his conduct, as follows:
  - if he does not achieve the work results or does not have the necessary knowledge and skills to perform his duties;
  - if he is convicted of a crime at work or related to work (final and binding court decision);
  - if he does not return to work for the employer within 15 days as when the unpaid absence or period of stay of employment expires.

— If the employee on his own fault commits a breach of their work duty, as follows:
  - if he is negligent or reckless in performing his work duty;
  - if he abuses his position or exceeds his authority;
  - if he uses the means of work unreasonably and irresponsibly;
  - if he does not use or uses inappropriately allocated resources and personal protective work equipment; or
  - if he commits other breaches of his work duty as determined by the collective agreement/employment rulebook or employment contract.

— If the employee does not comply with work discipline requirements, as follows:
  - if he without reason refuses to perform work and execute the orders of the employer in accordance with the law;
  - if he does not submit a certificate of temporary incapacity for work as required by the Labour Law;
  - if he abuses the right to leave due to temporary incapacity to work;
  - if he comes to work under the influence of alcohol or other intoxicating substances or uses alcohol or other intoxicating substances which have or may have an impact on the work performance during working hours;
  - if he gave incorrect information that was critical for concluding the employment contract;
  - if the employee working at a high risk job refuses to undergo a health check, although for working on such job the specific health requirements must be met;

- if he does not respect labour discipline as prescribed by an act of the employer, or if his conduct is such that he cannot continue to work for the employer.

— If there is a valid reason relating to the employer's needs, as follows:
  - if, as a result of technological, economic or organisational changes, the need to perform a specific job ceases, or there is a decrease in workload (redundancy); or
  - if he refuses to conclude the annex to the employment contract pursuant to the Labour Law.

Invalid reasons

In general, an employer may not terminate the employment contract of an employee for the following reasons:
— a temporary absence from work due to illness, accident or occupational diseases;
— use of maternity leave, absence from work for child care and absence from work for special care of a child;
— military service;
— sex, language, nationality, social origin, religion, politics or other belief or any other personal characteristic of an employee
— membership in a political organisation or trade union;
— If the employee is acting in the capacity of employee representative, in accordance with the Law; or
— the employee addresses a trade union or a body competent for the protection of labour rights in accordance with law, general act and labour contract.

6.3. Redundancy payment

If the employment contract is terminated because a certain job becomes unnecessary due to technological, economic or organisational changes, the employer shall pay severance pay as set by the labour rulebook/collective agreement or employment contract. The severance pay cannot be lower than the sum of one third of the employee's average gross salaries paid for the last three months of employment preceding the month in which severance pay is paid. This shall be calculated for each full year of employment with the employer.

The salary is defined as the salary the employee has earned in conformity with the Labour Law, labour rulebook/collective agreement or employment contract during a period of three months preceding the month in which the severance pay is paid.

An employee whose job becomes redundant and whose employment contract is terminated by the employer after the severance amount is paid will be entitled to unemployment allowance if he fulfils other conditions in accordance with the law.

6.4. General protection against termination of employment

Action against infringement of an employee's rights

An employee may take action with a competent court against any decision infringing his rights. The time limit for taking such action shall be 60 days from the date on which the decision was presented or the infringement became known.

Disputes before a competent court shall be terminated by a final binding decision within six months from the day upon which the proceedings are begun.

Any monetary claim based on a breach of employment rights shall become unenforceable three years after the date on which the breach occurred.

6.5. Employees with special protection against termination of employment

Protected groups

The employment termination resolution is null if, at the date of passing the resolution, the employer was aware of the existence of the grounds for using pregnancy leave, maternity leave, or leave for the special care of a child, or if the employee, within 30 days of termination of employment, informs the employer of the existence of these circumstances and submits the appropriate certificate from an authorised physician or other competent authority.

Also, an employer may not terminate employment, or put an employee in a disadvantageous position in any other way, because of his status or activities as an employees' representative, trade union member, or because of his participation in trade union activities.

Disabled persons

As for disabled persons, the employer is obliged to make it possible for any disabled employee to perform work suited to his working capability. Also, the employer shall find another suitable job for any employee who is compromised by his disability in his job. Only if the employee refuses to accept such a job may the employer serve an employment termination resolution. If the employer cannot provide the disabled employee with a job suitable for his working capability, then such employee shall be considered as redundant.

7. Change of employer

No effect on employment relationships without special agreementent

A change in employer should be in accordance with the provisions of the Labour Law. In addition, special collective agreements, as well as individual collective agreements, may apply to a particular change in employer.

In the event of a status change, and/or a change in employer, the successor employer shall take over from the predecessor employer the labour rulebook/ collective agreement and all contracts of employment that are valid on the day of the transfer.

The successor employer shall be bound to apply the labour rulebook/ collective agreement for at least a year from the day of the change of employer unless if, prior to the expiry of that time limit, the following happens:

— the validity period of the collective agreement applying to the previous employer expires; and/or
— a new collective agreement with the successor employer has been entered into.

The previous employer and the successor employer shall be bound to notify the representative trade union of the employer, 15 days before the change of employer, on:

— the date or proposed date of the change in employer;
— the reasons for the change of employer; and/or
— the legal, economic and social consequences of the change in employer in respect to the status of employees, and the measures for easing such consequences.

The previous employer and the successor employer shall be bound, within 15 days before the change of employer and in cooperation with the representative trade union, to take measures in order to anticipate the social and economic consequences for the employees of the change in employers. Should no representative trade union exist for the employer, the employees shall be entitled to be directly notified of the change of employer as stated above.

8. Industrial relations

8.1. Trade unions and staff representatives

Council of employees

The employees of an employer who has more than 50 employees may form a council of employees, in accordance with the law. The council of employees gives opinions and participates in decisions regarding the economic and social rights of employees, in accordance with the law and the labour rulebook/collective agreement.

Trade union

Employees must be allowed the freedom to organise trade unions and carry out trade union activities. In order to become a signature party to collective agreements, the trade union must be regarded as representative of the employees.

The trade union is considered to be representative if:
- it is established and acts according to the principles of trade union organisation and action;
- it is independent from state organs and employers;
- it is financed predominantly from membership fees and other independent sources;
- a minimum of 15% of the total number of employees employed by the employer are members of such trade union;
- a minimum of 15% of the total number of employees employed by that employer are members, for the representative trade union, in an industry branch, industry group, industry subgroup or business; and
- it is listed on the Trade Union register.

Association of employers

The Labour Law states that employers that employ a minimum of 5% of the total number of persons employed in a specific branch, group, subgroup or line of business, and/or on the specific territory, may establish an association of employers. In order to become a signature party to a collective agreement, the association of employers must be regarded as representative, in accordance with the Labour Law.
The association of employers is considered to be representative if:
- it is listed in the register in conformity with the Labour Law and the Bylaw on Registration of Association of Employers; and
- a minimum of 10% of the total number of employers in a branch, group, subgroup or line of business, and/or on the specific territory, are members of the association of employers, under the condition that such employers employ a minimum of 15% of the total number of employees in a branch, group, subgroup or line of business, and/or on the specific territory. The association of employers is considered to be established by registration in the registry of associations of employers, as kept by the Labour Ministry.

Paid leave for trade union representatives

A collective agreement or an agreement between an employer and trade union may stipulate that a trade union representative is entitled to paid leave in proportion to the number of trade union members. If this matter is not regulated, the trade union representative is entitled to:

— 40 paid working hours per month if the trade union has at least 200 members and one additional paid working hour per month per each additional 100 trade union members; or
— proportionally fewer paid working hours if the trade union has less than 200 members.

If there is no collective agreement or agreement, the president of the branch of member of trade union body is entitled to 50% of the aforementioned paid working hours.

8.2. Influence of Labour unions

Parties to a collective agreement

A general collective agreement may be entered into by the representative association of employers and the representative trade union for the territory of the Republic of Serbia. A special collective agreement for a branch, group and/or industry may be agreed on by the representative labour union and the representative association of employers formed for a branch, group and/or industry. A special collective agreement for the territory of an autonomous territorial unit and local self-government may be concluded by the representative association of employers and the representative labour union formed for the territory of an autonomous territorial unit and local self-government. An individual collective agreement may be concluded between the representative labour union organised within the employer's company and the employer.

9. Employment disputes

9.1. Individual employment disputes

Courts - time limits

An employee may take action with a competent court against any decision infringing his rights. The time limit for filing action shall be 60 days from the date on which the decision was presented or the infringement became known.

Any monetary employment claim shall become unenforceable after three years from the date it became due.

Any employee may file an action before a court having jurisdiction for the employer's registered offices or for the area where the employer performs its business activities.

Peaceful settlement of labour disputes

The Law on Peaceful Settlement of Labour Disputes ("Official Gazette of the RoS" Nos. 125/2004 and 104/2009) sets out the rules and procedure for the settlement of disputes in the field of labour relations.

Mediation in accordance with the Labour Law

A labour rulebook/collective agreement or employment contract may stipulate a procedure for the settlement of any dispute between the employer and an employee.

An employee and his employer may resort to an arbiter for the settlement of any dispute. The arbiter is appointed by the parties and must be a specialist in the field that is the subject matter of the dispute.

Republic Agency for the Peaceful Settlement of Labour Disputes

The Republic Agency for the Peaceful Settlement of Labour Disputes was created in 2004. This agency has the right to participate in resolving individual and collective labour disputes.

10. State Benefits

General background

The system of social security covers pension and disability insurance, health insurance and unemployment insurance.

10.1. Contributions for social insurance

Contributions are paid by the employees and the employers to the same amount:

— Pension insurance: employee 14% and employer 12%
— Health insurance: each contribute 5.15%
— Unemployment insurance: each contribute 0.75%

10.2. State pension

The general retirement age in accordance with the Labour Law is 65 years of age and 15 years of pension and disability insurance.

Retirement age for men

Retirement age for men: 65 years of age and at least 15 years of pension and disability insurance, or at least 57 years of age (in 2018 and to be increased in the following years) and 40 years of pension and disability insurance, or at least 45 years of pension and disability insurance;

Retirement age for women

Retirement age for women: 62 years of age (in 2018 and to be increased in the following years) and at least 15 years of pension and disability insurance, or at least 56 years of age and 38 years pension and disability insurance (in 2018 and to be increased in the following years), or at least 45 years of pension and disability insurance.

Private pension systems

Private pension arrangements were introduced by the new law on pension and disability insurance, as adopted in April 2003 and by the Optional Pension Fund and Pension Scheme Law, which came into force in 2005.

10.3. Unemployment benefits

Unemployment benefits

The state supports this category of people and the benefits depend on the particular conditions of unemployment.

Unemployed persons are entitled to an allowance that cannot be lower than RSD 22,390 (approx. EUR 185) or higher than RSD 51,905 (approx. EUR 430) per month. They are entitled to this for a maximum of 12 months and, in exceptional cases, for 24 months if the unemployed person fulfils the conditions for retirement within 2 years. This allowance cannot be less than 80% and more than 160% of the minimum wage as determined for the month in which the payment of allowance was made, as in accordance with the law.

The amount of contributions paid to unemployed people is established by the applicable Law on the Mandatory Social Contributions.

Slovakia

1. Hiring Employees

1.1. The Employment Contract

Written form required

An employment relationship is based upon an employment contract between an employer and an employee, which is usually set out in writing. However, failure to set out an employment contract in writing does not invalidate the employment relationship between the parties.

Verbal agreement also valid

An employment relationship may also be established by an orally concluded employment contract, which will become effective once the employee has commenced working for the employer.

Issues to be specified in the contract

The employment contract must specify the type of work to be undertaken and its short characteristics, place of work, start date and salary terms (unless the employment contract refers to relevant provisions of any collective agreement in which such terms have been agreed). The date on which salary is paid, working hours, annual leave entitlement and notice period must either be set out in the employment contract or notified to the employee in writing within one month of the commencement of employment. The employer must provide the employee with a copy of the employment contract.

Term of the employment

Under Slovakian law, fixed-term employment contracts may only be entered into for a maximum term of two years. The employer may enter a fixed-term employment contract with the same employee after a six months lapse from the termination of the previous employment relationship without restrictions. Otherwise, the fixed-term contract can only be renewed twice, for a maximum term of two years (i.e. two years in total).

Probation period

The employer and employee can agree upon a probationary period not exceeding three months, or in the event that the employee is under the direct managerial competence of a statutory body (i.e. managers in first level)

or the employee is under the direct managerial competence of such first level´s managers (i.e. managers in second level) a probationary period not exceeding six months. The probationary period must be set out in writing.

Choice of law – Jurisdiction clause

The employment contract may specify a choice of law and jurisdiction if the employment relationship has a foreign element, i.e. where one of the parties is not from the Slovak Republic.

Public Order Principle

The choice of law is subject to the "observance of the public order" principle, which means that the selected jurisdiction should not contradict the social and state order or the legal system and principles of the Slovak Republic. The legal system and its principles must be observed without reservation.

In cases where the choice of jurisdiction is permitted and the governing law has not been specified, the governing law will be determined by international civil law rules. In the absence of a choice of applicable law in the employment contract, the contract will be governed by the law of the country in which the employee habitually carries out his work in performance of the contract. However, if the employee carries out his work in one state in the course of his employment with an organisation whose registered seat is in another state, the law of the organisation's seat will be decisive, unless the person has residency in the state where the work is performed is concerned. Disputes may be resolved by arbitration, if the applicable law is a foreign law permitting this kind of proceeding.

In case of the employment relationship with a foreign element also the Rome I Regulation 593/2008 on the law applicable to contractual obligations applies.

1.2. Contracts for services

No substitute for employment contracts

Slovak law only permits the establishment of an employment relationship through a regular employment contract. There are no "free labour contracts".

Agreement concerning activities not based on the employment relationship

Agreements concerning activities outside of an employment relationship can be entered into, either for the performance of works limited by a certain objective or for another working activity, if implementation of such arrangements within the framework of a regular employment relationship would be impractical and uneconomical.

Scope of work carried out on the basis of an agreement

Slovak law limits the scope of works that can be carried out under a "work performance agreement" (350 hours per year per person), under a "working activity agreement" (10 hours per week per person) or under a "student temporary work agreement" (20 hours per week per person in average) and their duration to a maximum of 12 months.

1.3. Employment of foreigners

Corporate and residence permit

An employer may only employ an employee who is not a European Union citizen in Slovakia (an "alien") if the employee has been granted a work permit by the Office for Labour, Social Issues and Family, and a permit for temporary stay from the Slovak Immigration Authority (the "Aliens police" - cudzinecká polícia). As far as the employment relationship is concerned, aliens have the same legal status as citizens of the Slovak Republic. Work permits are regulated by the "Employment Act" and "Aliens Residence Act".

Citizens of the European Union

Citizens of the European Union do not need a work permit, but must register with the Aliens police.

No exemptions for foreign key personnel

No separate provisions are specified for foreign key personnel. Foreign key personnel have the same legal status as Slovak key personnel.

1.4. Special rules for executives?

Chief executive officer or members of statutory bodies

Employment law does not regulate the statutory roles of chief executive officer or members of statutory bodies. The statutory body and position are regulated exclusively by agreements dealing with the exercise of the office, or by a "mandate agreement" subject to the Commercial Code. An individual in an executive (managerial) position, member of a statutory body or statutory representative may also have an employment contract with its employer. However, the employment contract cannot deal with the exercise of the individual's statutory position.

No exemptions for managers or directors

Employment contracts with managers and directors are subject to the same regulation under the Labour Code as contracts with other employees. Managers and directors are equally protected against dismissal, and their working time and overtime are regulated in the same way. However, with executive employees it can be agreed that payment for overtime, work on public holidays and night work is included in their total salary and that their probationary period is longer than three months but not exceeding six months.

2. Remuneration

2.1. Minimum wage

Statutory minimum wage

Salary is usually agreed between the employer and the employee.

The statutory minimum wage depends on the nature and level of difficulty of work undertaken by the employee. The Labour Code classifies six levels of difficulty of work, for each of which the statutory minimum wage increases

by a different multiplier. The statutory minimum wage in 2018 will be € 480 per month and € 2,759 per hour.

A collective agreement cannot specify a minimum wage of less than the statutory minimum. An employer will be bound by a minimum wage agreed in the collective agreement if it is higher than the statutory minimum.

Collective agreements

2.2. Pay increases

Slovak law does not prescribe a formula for increases in salary. Salary increases can generally be regulated by collective agreements, which would then bind the employer.

Collective agreement

If there is no collective agreement regulating salary increases, any increase is regulated exclusively by the mutual agreement of the employer and the employee.

Employment Contract

2.3. Reduction of wages

Specification of salary is one of the basic requirements of the employment contract. Salary can only be changed by mutual agreement of the employer and the employee.

Mutual agreement

3. Working time

3.1. Standard working hours and breaks

Normal working hours are eight hours per day and a maximum of 40 hours per week. For shift workers, normal working hours should not exceed 38.75 hours per week (employees working two shifts) or 37.5 hours per week (employees working three shifts or in cases of continuous operations). For employees working with chemical carcinogen substances, normal working hours should not exceed 33.5 hours per week. For employees aged below 16, normal working hours are up to 30 hours per week. For employees aged between 16 and 18 even when working for several employers, normal working hours are set at 37.5 hours per week as maximum.

Daily and weekly standard working hours

Statutory minimum rest periods (lunch break) are not included in working hours and are unpaid. An employer is obliged to provide an employee whose work shift is longer than six hours with a break to rest and eat for duration of 30 minutes. The employer is under a legal obligation to provide an employee working at least four hours during the working shift with catering and shall provide the employee with a meal allowance equal to the amount determined in accordance with special regulation.

Lunch break

3.2. Minimum rest periods

Minimum weekly rest period

Working hours are to be divided in such a way that employees have at least 12 hours of rest time between the end of a shift and the beginning of the next shift within the 24 hour period. The employee must be given two consecutive uninterrupted rest days each week: either Saturday and Sunday, or Sunday and Monday (or in the case of employees over 18 years of age, another two consecutive uninterrupted rest days if necessary due to operating conditions).

In special circumstances, daily rest time may be shortened to eight hours for employees over 18. The circumstances in which this is possible are determined by law (such as in cases of continuous operations or when the performing of the work is needed in some period of time more than in others, e.g. the urgent work in agriculture, providing universal postal services or when performing urgent repair work in order to avert a threat endangering the lives or health of employees, or in other extraordinary circumstances). If the employer cuts daily rest time in these circumstances, it must provide the employee with adequate substitution of daily rest within the following 30 days.

3.3. Maximum allowed working hours

Maximum working hours

According to the Labour Code, maximum working hours (including overtime work) are 48 hours per week (56 hours per week for medical employees). Where there is uneven distribution of working time, working hours per day should not exceed 12 hours.

3.4. Overtime work

Limitation on overtime work

Employers may only order employees to work overtime in special circumstances, for example, where there is a high demand for work or where the public interest is concerned. In any event, overtime work must not exceed eight hours per week and 150 hours per year (and another 100 hours per year in case of medical employees according to an agreement with employees´ representatives).

Exceptions

An employer may, for substantive reasons in special circumstances as stated above, agree upon overtime work with an employee beyond the limits stipulated above, to an absolute maximum of 250 hours, i.e. maximum total overtime work is 400 hours per year.

Compensation for overtime work

An employee must be paid his usual wage and a premium of at least 25% of his average wage (or 35% where the employee is performing dangerous work) for any overtime work.

Penalties

Where maximum overtime hours are exceeded, the labour office can impose a fine on the employer of up to € 100,000. The employee is not obliged to perform work if maximum overtime hours have been exceeded, and refusal to perform overtime work in excess of the statutory maximum hours will not be a breach of contract.

3.5. Working during the weekend and on public holidays

Weekly rest period

An employer is obliged to divide working hours in such a way that an employee has two consecutive uninterrupted rest days each week. Rest days must either be Saturday and Sunday, or Sunday and Monday.

General rule with exceptions

If operating conditions do not permit rest days on these days, the employer can provide two other consecutive uninterrupted rest days each week for employees over 18. Working during rest days can only be ordered in special circumstances and only after consultation with the employees´ representatives (e.g. trade unions).

Shift-work

In cases of shift-work, working hours must be organised in such a way that employees can rest for at least 12 consecutive hours within a 24-hour period.

3.6. Premiums for work during public holidays, weekends and night work

Premiums are paid for work that is completed during holidays, for night-work, overtime work, and where the performance of work is more difficult (e.g. in an health-damaging environment and performing of extra difficult work).

Work during holidays

For work during holidays, the employee is entitled to usual wage and a premium of at least 50% of the employee's average wage. As from 1 May 2018 the premium shall apply in the amount of at least 100% of the employee's average wage.

Night work

For night work, the employee is entitled to usual wage and a premium of at least 20% (as from 1 May 2018 at least 30% and in relation to employee performing risky works 35%, and as from 1 May 2019 40% and in relation to employee performing risky works 50%) of the statutory minimum wage claim (i.e. the minimum wage for the first level of difficulty of work, see 2.1 above) for each hour worked. This premium must be paid in addition to the premium for overtime work (if an employee works overtime during night). The night work is work carried out between 10 p.m. and 6 a.m.

Work in aggravated and health damaging environment

Where performance of work is more difficult than normal (e.g. in health-damaging environments and when performing extra difficult work) the

employee is entitled to usual wage and a premium of at least 20% of the statutory minimum wage claim (at the first level of difficulty of work, see 2.1 above) for each hour worked.

Work on Saturdays and Sundays

As from 1 May 2018 the employee shall be entitled to a premium for work on Saturday in the amount of at least 25% and from 1 May 2019 at least 50% of minimal hourly wage per each hour of work on Saturday. As from 1 May 2018 the employee shall be entitled to a premium for work on Sunday in the amount of at least 50% and from 1 May 2019 at least 100% of minimal hourly wage per each hour of work on Sunday.

4. Paid annual leave (holiday)

4.1. Minimum holiday entitlement

Minimum holiday entitlement

Where working hours are uniformly distributed, minimum holiday entitlement is four weeks, i.e. 20 working days per calendar year. For an employee who reaches the age of 33 years before the end of the given calendar year, minimum holiday entitlement increases to five weeks, i.e. 25 working days per calendar year.

A holiday week means seven consecutive days.

Work in specific conditions

If an employee works in certain legally specified conditions, he has the right to receive compensatory leave of one week in addition to his main holiday entitlement. Employees with the right to compensatory leave are: those who work underground, in mineral mines, in tunnel or mine maintenance, and those who perform particularly difficult or health-endangering work (for example, in contagious environments).
The minimum holiday entitlement of teachers and school directors is eight weeks per calendar year.

Other vacations

N/A

4.2. Forfeiture of the holiday entitlement

Holiday consumption

The employer must consult a vacation plan approved by the employees' representative, e.g. trade union (if any) when planning vacation with the employee. The employee should be entitled to take his/her entire holiday entitlement before the end of the calendar year.

Transfer to the next year

If the employee does not use his/her entire holiday entitlement due to the reason that the employer has not determined the holiday schedule or due to obstacles at work on the part of employee, the remaining holiday entitlement is transferred to the next calendar year.

Money compensation

An employee is entitled to compensation (of his/her average wage) for any holiday time exceeding his/her four weeks' basic holiday entitlement that he/she is unable to take before the end of the following calendar year.

An employee cannot be paid compensation for any untaken part of his four weeks' basic holiday entitlement, unless the reason he was unable to take holiday was due to termination of his employment.

5. Sick pay

Sick pay

In the event of temporary incapacity for work, an employee is entitled to sick pay from the state social insurance system from the 11th day of temporary incapacity for work. Until then, i.e. for the first ten days of his/her temporary incapacity for work, he/she is entitled to "income compensation" provided by his/her employer.

Income compensation:
— From the first to the third day of temporary incapacity: 25% of the "daily measurement basis";
— From the fourth to tenth day of temporary incapacity: 55% of the "daily measurement basis".

Sick pay:
— From the 11th day of temporary incapacity: 55% of the "daily measurement basis".

The definition and the calculation of the "daily measurement basis" is stated in law and the base for its calculation is the month's salary of the employee.

Sick pay is paid up to a maximum of 52 weeks from the first day of temporary incapacity for work.

An employee is entitled to receive sick pay from the sick payment register for any validated temporary sick leave (i.e. confirmed by a medical doctor) under his/her health sickness insurance.

Health examination

When an employee takes sick leave, his employer does not have the right to demand that a health examination be carried out by a medical doctor

appointed by the employer. However, the employee is obliged to give his/her employer a "sick leave confirmation" from his/her chosen doctor, on the basis of which he/she will be granted sick pay.

6. Termination of Employment

General background

When terminating a contract, the following conditions must be observed:

Mutual consent

— Termination of a contract by written agreement between an employer and an employee – no special conditions. However, in case of termination due to "organizational reasons" and in case the employee requires to do so, the termination agreement shall stipulate the reasons for termination of the contract.

Probation period

— Termination of a contract during a probation period – in the probation period, the contract may be terminated without stating a reason by any of the contractual parties.

Termination by the employer

— Termination of a contract by dismissal by the employer:
  - An employee can only be dismissed on certain legally stated grounds.
  - The dismissal will only be valid if there has been previous consultation with the staff representatives (if any).

Notice period

— The notice period is one month, unless the Labour Code does not stipulate otherwise. The notice period shall be at least two months when employment relationship lasted at least one year. The notice period starts on the first day of the calendar month following the delivery of notice, and ends with the last day of the relevant calendar month. However, it is important to bear in mind that the end of the notice period may be affected by any protection an individual is entitled to.

Termination by the employee

— Termination of a contract by the employee:
  - Employees can terminate their employment contracts without special reasons. When the employment relationship took at least one year the notice period shall be at least two month.

Termination with immediate effect

— Termination of a contract with immediate effect by the employer:
  - Possible only on certain legally stated grounds during the two-month period starting on the date the employer became aware of the reason for dismissal (and no later than one year after the ground for dismissal came into being).
  - The dismissal will only be valid if there has been previous consultation with the staff representatives (if any).

— Termination of a contract with immediate effect by the employee is possible only on legally stated grounds.

6.1. Formal requirements to be observed by the employer

Written form required

Termination of contract by either the employer or the employee must be confirmed in writing and provided to the parties concerned. If these requirements are not fulfilled, the dismissal is considered to be invalid.

In some exceptions approval required

Prior approval is not needed for a dismissal, except in the following circumstances:

Partially disabled employees

— when a disabled employee is dismissed for other reason than for winding up or relocation of the employer or infringing the labour discipline or being convicted of an intentional crime, the employer must obtain the prior approval of the relevant Office for Labour, Social Issues and Family;

Staff representatives(incl. Representatives of the trade union)

— employees' representatives are protected (during their term of office and for six months after termination) against measures which impair them (such as termination of employment), and are motivated by their position or activities;

— the employer may dismiss a member of an employee representative (e.g. work council, or liaison officer, or a representative body of the trade union) only with the prior consent of these staff representatives.

6.2. Limited reasons to terminate the employment

Probation period

Both the employer and employee may terminate the employment contract without reason during the probationary period. After the probationary period the employee can be dismissed only on legally stated grounds.

Termination by the employee

An employee can always terminate his/her contract without stating a reason (see above).

Employer has to provide a "valid reason" for the termination of employment

The following reasons for dismissal are considered valid:

— company re-organisation:
  - winding up of the whole or part of the employer;
  - relocation of the whole or part of the employer and the employee does not agree with the change of the agreed place of work; or
  - where the employee becomes redundant due to company re-organisation.

— personal reasons:
  - inability to carry out the work on a long-term basis due to health reasons;
  - failure to fulfil work requirements and conditions by the employee;
  - unsatisfactory performance of work tasks (provided that the employer has already provided the employee with a "written notice for removal" in the past six months); or
  - disciplinary breaches (serious and gross negligence).

6.3. Redundancy payment

Termination of employment because of company re-organization

The employer must give the employee a severance payment of:

— one months' salary if the contract is terminated by the employer due to a company re-organisation, or the employee's inability to work on a long-term basis for medical reasons and the employment relationship took at least two years but not longer than five years;
— two months´ salary when the employment relationship took at least five years but not longer than ten years;
— three months´ salary when the employment relationship took at least ten years but not longer than twenty years; or
— four months´ salary when the employment relationship took at least twenty years.

Termination of employment because of company re-organisation by mutual agreement

Should the employment relationship be terminated for reasons as stated above but by mutual agreement between the employer and the employee the employee is entitled to a severance payment of:

— one months' salary when the employment relationship took less than two years;
— two months´ salary when the employment relationship took at least two years but not longer than five years;
— three months´ salary when the employment relationship took at least five years but not longer than ten years;
— four months´ salary when the employment relationship took at least ten years but not longer than twenty years; or
— five months´ salary when the employment relationship took at least twenty years.

Retirement

In the case of retirement, the employee is entitled to compensation of one month's average salary.

Business transfer

The employee is not entitled to a severance payment on a business transfer (all employment rights and liabilities are automatically transferred to the legal successor).

6.4. General protection against termination of employment

The following provisions of the Labour Code may serve to protect the employee from dismissal:

— An employer can dismiss an employee only for precisely defined reasons.

Consultation with the trade union

— An employer is obliged to negotiate every dismissal in advance with the relevant employees' representative.

Opinion of the employee

— An employer is obliged to explain the reason for dismissal in case of dismissal for breach of work discipline, and let the employee express his opinion.

— An employer cannot dismiss an employee during a protective period (described in 6.5 below). — Protection period
— If an employee is dismissed due to the closure of his work place, the employer cannot re-create the closed word place nor hire another employee for the same work place within two months of the dismissal. — Period of 2 months

6.5. Employees with special protection against termination of employment

The following groups of people are protected against dismissal by the employer by way of a protection period: — Prohibition of Redundancy

— employees on validated sick leave;
— employees inducted into a call-up to perform extraordinary service during a state of crisis or a mobilization order;
— employees who are pregnant, on maternity or paternity leave or a single employee nursing a child under three years old;
— employees absent from work due to the exercise of official duties; and
— employees, who work at night but are temporarily unable to do so as established by a medical examination.

The following employees are also protected against dismissal: — Approval required

— member of a staff representative and the representative for security and health protection at work - the approval to dismissal by employee representatives is needed; and
— disabled employees - the approval of Office for Labour, Social issues and Family is needed.

6.6. Involvement of staff representatives

If there is no work council, the trade union will consult with an employer regarding an individual dismissal or termination without notice. — Consultation with the trade union

The employees' council should be consulted regarding a dismissal or termination without notice even if it works alongside with a trade union at the employee's place of work. — Notification of the employees' council

6.7. Termination in connection with reduction of wage

Specification of salary is one of the basic requirements of an employment contract. Salary can only be altered by the mutual agreement of the employer and the employee (see 2.3). — Mutual agreement

The employer can enter into a new employment contract with an employee before legally terminating the existing contract. An agreement changing

working conditions is only valid insofar as it has been mutually agreed between the employer and employee.

Social Obligation to offer another job

Where dismissal is not due to a disciplinary breach, unsatisfactory performance or for other reasons permitting summary termination with immediate effect, an employer has a social obligation to offer the employee another suitable job.

7. Business transfer

EU Directive 2001/23

The Slovak Labour Code regulates the transfer of employment rights and duties as under the Transfer of Undertakings Directive (EU Council Directive 2001/23/EC) safeguarding employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses. All rights and liabilities are automatically transferred to the legal successor (transferee).

Automatic transfer of contracts of employment

Under Section 27 of the Labour Code (Act No. 311/2001 of the Coll.) all rights and liabilities are automatically transferred to the legal successor. The new employer has the same obligations as the previous employer.

8. Industrial relations

8.1. Trade unions and management

Right of approval

Trade unions have the rights of bargaining, co-determination, controlling and information in the following situations:

— In the case of the dismissal of a trade union representative, prior approval must be obtained from the relevant trade union (see 6.1. and 6.5 above).
— Where the employer wishes to decide on collective vacations, the prior approval of the relevant trade union is required ("right of approval").
— The employer may issue "work rules" with the prior consent of employees' representatives.

An agreement between the employer and the employees' representatives is required where the employer proposes:

— organising working hours differently to statutory uninterrupted rest time regulation due to operating requirements (prior approval of the trade union is required);
— uneven scheduling of working hours;
— introduction of flexible working hours;
— determination of start and end of working hours, scope and conditions of overtime work ;

— determination of difficult physical and mental works;
— determination of a corporate holiday;
— determination of norms for work consumption; and
— determination of serious operational reasons as reasons of "obstacles on part of employer," when for some technical problems on the employer's part, the employee may not perform the work, but the employer has to pay him the salary.

An employer is obliged to discuss any proposed dismissal, or any action to be taken in respect of unauthorised absences with the staff representatives ("right of consultation", see 6.4. above).

Right of consultation

An employer is also obliged to consult with the staff representatives regarding:
— measures to prevent mass dismissal;
— measures in case of transfer of employee in general e.g. when the enterprise was sold to another employer;
— the scheduling of fixed working hours;
— ordering employees to work on holidays;
— interruption of an employee's work performance because of an important interest of the employer;
— measures for increasing employee's qualification by training them and for employing disabled staff; and measures requiring damage compensation from employee who caused such damage.

Works council and staff representatives in the workplace

It should be noted that under Slovak law there is no obligation on employers to establish a trade union. The establishment of a work council and of a liaison officer is the exclusive right of employees. In the event that employees exercise this right, the employer is obliged to permit the employees the establishment of staff representatives.

8.2. Influence of Trade unions

Industrial firms

Unions have the right to be informed and co-decide decisions made by the employer, particularly where the employer is a large organisation or if it employs a large workforce (particularly industrial firms). Unions may be able to enforce the right to conduct collective negotiations immediately to ensure advantageous conditions for employees.

Smaller companies

In terms of smaller companies and organisations, unions have fewer powers, as they are not so active. Similarly, liaison officer or works council members rarely have any real influence on the decisions taken by the employer.

8.3. Mandatory creation of a works council or staff representatives

Existence of an active union organisation

Any active union organisation which already exists will be regulated by the statute that governs all conditions for: establishing union bodies, votes at those bodies, the number of members, the term of office and the whole internal structure of the union (ac. to the Act No. 83/1990 of the Coll. on the congregation of people).

Works council

If no trade union exists, a works council consisting of staff members may be established if the employer employs more than 50 employees.

Staff representative

If less than 50 employees however at least three employees are employed, a liaison officer may be elected. The elections of members of the works council and/or of the liaison officer are governed by the Labour Code.

Number of members of the works council

The number of works council members is dependent on the number of employees in the organisation. If there are fewer than 100 employees, at least three members are required. The term of office of the works council is four years. The employer must pay all costs incurred in connection with the elections.

8.4. Rights of staff representatives

Trade Unions

The right of co-operation in decision of all important resolutions regarding the employees and their working conditions with the employer is the exclusive right of the union (further as "co-determination").

Trade unions conclude collective agreements on behalf of employees and have the right of co-determination. The employer has the following duties:

— The employer is obliged to discuss any proposed employee dismissal with the responsible employees' representative, or the dismissal will be considered to be invalid.
— Where the employer proposes dismissing an employee representative the prior approval of the staff representative is required.
— The employer may issue "Work Rules" once the prior consent of staff representatives have been obtained.

No right of approval

Where the trade union has a right of co-determination, the employee's council and the liaison officer will only have a right of consultation, and not a right of co-determination.

The employee representatives are entitled to the following:

Right of consultation

— a right of consultation regarding measures, questions and changes in connection with creating fair and well developed working conditions, organisational changes likely to restrict or suspend the work of the enterprise or parts of the enterprise, merger, distribution or changes in the legal structure of the employer;

Right of information

— a right of information on fundamental business development policy;
— a right of information on economic results, both those that are forecast and those that have been attained; and
— a right of examination of the compliance with labour law provisions (agreed wages, duties of the collective agreements).

Collective agreements

The respective rights and responsibilities of the employer and trade unions can be determined in a way other than that envisaged by the Labour Code (or other provisions) if this is set out in a collective agreement. However, this is only possible where the provisions of the collective agreements are to the advantage of the employees and there is no prohibitive statutory provision. Therefore, the rights and responsibilities of the employees must not be restricted by collective agreements.

Special protection against termination of the employment

Employees' representative in function are protected (during their term of office and for six months after its termination) against measures which impair them (such as termination of employment), and are motivated by their position or activities;

Approval of the regional employees inspectorate

N/A

8.5. Staff representatives and the right of paid release

Paid release

An employees' representative is entitled to receive salary compensation for activity undertaken in performance of his duties as an employees' representative. Members of the union, of the employee's council and employees' representatives have a right to exercise their function. Such rights include:

— the right to be released from work to perform their duties as an employees' representative (and to be paid salary for time spent in performance of their duties as employees' representative;
— the right to a leave of absence for the time needed to fulfil the duties connected to his position with salary compensation; and
— the right to take part in education and training if these activities cannot be carried out outside of working hours.

8.6. Staff representatives and material expenses

Rooms

The employer shall, where possible, provide premises and reasonable hardware for the activities of the union or representatives free of charge and shall bear the expenses in connection with any maintenance and technical support required.

Technical support

The provision of technical assistance by the employer depends on the size and resources of the company, for example, the employer may be able to provide the company's technical equipment where business operations will not be disturbed and affected.

8.7. Collective Agreements

Trade union organisation

If an employees' organisation representing employees exists at the workplace, a collective agreement may be concluded between the employer and the employees' organisation. The provisions of the collective agreement apply to all employees irrespective of whether they are members of the employees' organisation or not. All unilateral deviations from or breaches of a collective agreement are treated as a breach of contract.

9. Employment disputes

Courts

The general civil courts are competent for all decisions in all employment law matters. There are no special industrial law courts in Slovakia.

Arbitration courts

There are no special arbitration courts or mediators for employment law matters. Slovak law does not allow arbitration tribunals to resolve employment law matters. The competence of general civil courts cannot be excluded.

10. State Benefits

General background

There is a system of social insurance in Slovakia (statutory insurance) exercised by the following funds:

— Health Insurance fund
— Sickness Insurance fund
— Pension fund
— Accident Insurance fund
— Unemployment Insurance fund
— Invalidity Insurance fund
— Guarantee Insurance fund

Health Insurance covers primary and secondary healthcare (diagnosis, treatment and rehabilitation). Sickness Insurance covers remuneration during sickness, child fostering and maternity. The Pension Fund provides support for the elderly and disabled. Unemployment Insurance contributions provide support for employees during periods of unemployment.

10.1. Contributions for social insurance

Contributions by the employer and by the employee

In 2018, the employer will pay a contribution to the social insurance fund of 25.20% of the "measurement basis", which definition is stated in law and which is calculated from the monthly salary paid to the employee. The employee pays a contribution of 9.40% of the measurement basis based on his monthly salary

Contract of employment governed by foreign jurisdiction/law

Both the employer and the employee are obliged to pay contributions to the social insurance fund in Slovakia, even if the employment contract is governed by foreign jurisdiction/law. The territorial principle applies, providing that jurisdiction is determined by the employee's place of work.

10.2. Retirement age

In 2018, the employee is entitled to receive a pension if he has been insured for at least 15 years and has reached the age of 62 and 139 days stipulated by Decree of Ministry of Labor, Social Affairs and Family of the Slovak Republic.

Women, Men

The statutory retirement age of women and men, generally is 62. Women, depending on the number of children given birth, may retire earlier.

10.3. Calculation of pension

Maximum pension

The calculation of pension is stated in the social insurance law, and depends on the employee's peak earning level and number of years' worked. The amount varies since many factors may influence its determination.
ocial Contributions.

10.4. Private Pension Systems

Additional pension insurances

At present there are only additional pension insurances besides the commercial insurances (e.g. life assurance) in Slovakia. This system of saving the money for pension is voluntary. Money in this system is administrated by pension companies established for this purpose.

10.5. Unemployment benefits

Entitlement to unemployment benefits

In 2018, an employee who has lost his job and registered at the relevant Labour Office may receive an unemployment benefit if he has paid contributions during at least two of the four years prior to him registering as unemployed.

Amount of the unemployment benefits

Unemployment benefit amounts to 50% of the daily measurement basis and is not available for longer than six months.

Funding of the unemployment scheme

Both the employer and employee pay contributions to the unemployment benefit system of 1% of the "measurement basis", the definition of which is stated in law and which is calculated from the monthly salary paid to the employee.

Slovenia

1. Hiring Employees

1.1. Employment contracts

Written form required

Employment contracts have to be concluded in writing and signed before or on the first day of work. Furthermore, a draft of the employment contract must be provided to the employee at least three days before the commencement of the employment. If – contrary to the statutory provisions - an employment contract is not duly signed, it is assumed that the employment relationship commenced on the first day of work and that it was concluded for an indefinite term. However, the written form is not a prerequisite for the validity of the employment relationship, meaning the employment relationship may also be concluded orally or by way of an implied agreement, which is however not common (or advisable) practice.

Fixed-term agreement

Employment contracts can be concluded for a definite (fixed term) period of time as well as for an indefinite term. As a rule, the employment contract should be concluded for an indefinite term.

Employment contracts may only be concluded for a fixed period of time under specific statutory conditions which are explicitly listed in Article 54 of the Employment Relationship Act ("ZDR-1"; e.g. work which by its nature is of a definite duration, substitution of a temporarily absent employee, temporary increased volume of work, work organised as project or seasonal work, work of management employees and proxy holders etc.) and for the period of time which is required for the realisation of work in the aforementioned cases. The statutory reason for the conclusion of a fixed term agreement shall be explicitly stated in the agreement.

ZDR-1 also limits the use of employment contracts for a definite period of time by prohibiting the employer to conclude fixed term employment contracts for more than two years of time for the same work. This time limit of two years refers not only to a certain employee but to a certain type of

work as well and is also relevant if several employment contracts are concluded consecutively with interruptions of no more than three months. The branch collective bargaining agreements may stipulate individual exceptions from this time limit.

Employment contracts which are not concluded in written form are deemed to be concluded for an indefinite period. The same rule applies to employment agreements which have been concluded for a fixed term without a justified cause.

According to the ZDR-1, the probationary period may last for a maximum of 6 months, if not determined otherwise in the applicable collective bargaining agreement.

An employee whose fixed-term employment agreement has ended due to lapse of time is entitled to a severance payment (1/5 of the average monthly salary of the employee for employment contrasts of up to one year and an additional proportionate amount of 1/12 of the existing 1/5 for every further month). The employee is not entitled to such severance payment if the agreement was concluded: a) to replace a temporarily absent worker, b) perform seasonal work that lasts less than three months in one calendar year, c) perform public works, or d) for the purpose of integrating policy measures into active employment. This applies to fixed term agreements concluded after 12 April 2013.

Choice of law

All employment relationships concluded on the territory of the Republic of Slovenia are governed by Slovenian law (with the exception of foreign diplomats). In the event of workers being posted to the RS by a foreign employer, Slovenian law shall be applicable in accordance with the provisions governing the position of posted workers.

Choice of legal venue

Pursuant to the provisions of ZDR-1, local jurisdiction over contractual or statutory rights and duties may not be excluded. Matters regarding employment law are settled before the competent Labour and Social Court. If the employee acts as a plaintiff, the court's jurisdiction is based upon the employer's/defendant's registered offices or the place where the work has (should have) been performed or the place where the employment relationship was concluded. If the employer acts as a plaintiff, general jurisdiction according to the defendant's residence is given.

The Labour and Social Court in Ljubljana has exclusive jurisdiction over intellectual property disputes deriving from the employment relationship.

1.2. Alternatives to the conclusion of an employment contract

Other independent relationships

Independent workers are not subject to the provisions of the Employment Relationship Act. Such service agreements (usually named as "agreement for performance of work", "contract for carriage", "building contract", "mandate contract" etc.) are concluded in the framework of the provisions of the Slovenian Code of Obligations.

Economically dependent persons

If such an independent worker who is a self-employed person (independent entrepreneur) on the basis of a civil law contract obtains at least 80% of his annual income from work for the same contractor (e.g. "economic dependence"), he is considered as an economically dependent person. The protection granted to such workers extends to the prohibition of discrimination, comparable liability for damages as applicable to employees, the right to proper payment (minimum salary), minimum notice periods, and the prohibition of termination of his civil law contract without substantiated grounds.

Elements of the employment relationship

Persons who voluntarily provide services: (i) in an organised work process with elements of subordination and under the employer's control; (ii) against remuneration; (iii) personally; (iv) as well as uninterruptedly for a long time; are subject to a statutory presumption that an employment relationship is actually in place.

1.3. Employment of foreign citizens

Single permit

Foreign or third country workers must obtain a single permit (consent to work and residence permit) pursuant to the provisions of the Employment, Self-employment and Work of Foreigners Act.
This act and its derivative legislation establish that the basic condition for employment of a foreign citizen is the current labour market situation and a shortage of adequate domestic candidates. In this respect, the government may determine an annual quota of consents to work for single permits and permits for seasonal work.

Citizens of member states of the European Union, EEC member states and Switzerland are not required to obtain a single permit, but must register their residence within three months' time after entry to the country. The certificate on registration of residence is issued for 5 years or for the period of intended stay in the Republic of Slovenia, if this is shorter than five years.

Highly qualified foreigners may also obtain a residence permit for the purposes of highly qualified employment (EU Blue Card).

1.4. Special provisions for representatives

Single permit due to work or employment

If a foreigner represents a Slovenian branch of a foreign company or a legal entity established in accordance with the Companies Act and wishes to perform work or be an employer in such entity, said foreigner must have a single permit. However, the procedure to obtain consent (part of the single permit) is simplified in this case, since no obligation exists to assess the Slovenian labour market beforehand (i.e. availability of eligible Slovenian candidates for this job position).

Companies and Slovenian branches of foreign companies with up to 10 employees may apply for the single permit for only one foreign representative. Companies and Slovenian branches of foreign companies with more than 11 and up to 50 employees may apply for two single permits for foreign representatives.

Short-term representation registration

A legal representative from a 3rd country may perform representational work, conclude legal transactions, supervise, give instructions and perform similar works within that function based solely upon a registration of work. Note that said registration must be completed in addition to the legal representative being entered into the court register, as these are two separate legal institutes. However, work based on such registration may be carried out only up to 90 days in a calendar year.

2. Remuneration

2.1. Minimum wage

The Minimum Wage is regulated in the Minimum Wage Act. The minimum wage represents payment for full-time work, whereby allowances for night work, Sunday work, work on public holidays and work on free days is explicitly excluded from the minimum wage. As of January 2017, the minimum wage amounts to EUR 804.96 gross. The minimum wage is calculated based upon the expected growth of the prices of consumer goods and is determined annually by the Ministry of Labour, Family, Social Affairs and Equal Opportunities.

Collective bargaining agreements may provide minimum wages for certain tariff classes. However, they must be higher than the minimum wage as according to the aforementioned act.

Collective bargaining agreements

2.2. Pay raises

Pay raises occur as a result of periodical negotiations on collective bargaining agreement. They are recorded in the respective written collective bargaining agreement.

Pay raises may also be agreed individually between the employer and the employee based on the performance of the latter or can be determined by the employer on the basis of internal by-laws.

Agreement

2.3. Pay reduction

Remuneration may only be reduced by mutual agreement between the employee and the employer.

If the employer is temporarily unable to provide work due to business reasons (e.g. an economic crisis), then they may temporarily lay-off the affected employees via written notice for a maximum period of six months in one calendar year. For this time, the employee has a right to salary compensation to the amount of 80 % of his regular salary.

3. Working hours

Maximum working hours

3.1. Daily and weekly regular working hours and breaks

Regular weekly working time amounts to 40 hours. Daily regular working time amounts to 8 hours, with a paid lunch break of 30 minutes included. For part-time employees, the duration of this lunch break should be calculated in proportion to the working hours.

Rest periods

3.2. Statutory periods of rest

Employees are entitled to an (unpaid) daily minimum rest period of at least 12 hours, as well as a weekly minimum rest period of at least 24 hours. If, however, an employment contract stipulates irregular working hours, the employee is entitled to an (unpaid) daily minimum resting period of at least 11 hours.

Employment and collective bargaining agreements may stipulate other additional provisions for management (executive managers or proxy holders) employees.

3.3. Maximum permissible daily and weekly working hours

Weekly working hours must not exceed 56 hours, including overtime work. However, a resting period of at least 11 hours must in all eventualities be granted between working days.

The maximum permissible daily quota amounts to 10 hours; however, collective bargaining agreements may contain other more beneficial provisions.

Employers cannot demand more than a maximum of 170 hours of overtime work per year, 20 hours per month and 8 hours per week. The annual limitation of 170 hours may be exceeded (up to 230 hours in total), whereby the employer has to gain the employee's written consent in each case of required overtime work.

3.4. Performance and remuneration of overtime

Overtime work is only exceptionally allowed

Overtime work may only be allowed due to exceptional business needs or where public interest is involved (e.g. exceptionally increased amount of work, if overtime work is needed to prevent material damage, a threat to life, to ensure the safety of people and property etc.). Overtime work may not be imposed if the work could be distributed within regular working hours via a suitable organisation and distribution of work, distribution of working time, introduction of new shifts or by employing new workers. Also, certain groups of employees such as the elderly, young employees, pregnant women, employees with health risk etc., may not be ordered to work overtime.

Written form is required

In general, overtime work should be ordered by the employer in writing prior to commencement. If overtime work is performed without the order of the employer, the employee is not entitled to extra pay for such work. However, if the employer does not give a written order but knows that the employee has to work overtime for the requested task, this should not result in negative consequences for the employee in terms of the overtime not being acknowledged.

Branch collective bargaining agreements

The individual branch collective bargaining agreements provide provisions with regards to the performance and remuneration of overtime. No general statutory provisions apply in this regard.

3.5. Work at night, Sundays and holidays

Pursuant to ZDR-1, employees are not only entitled to additional compensation (bonuses) for overtime work, but also for night work, work on Sundays and work on public holidays and work-free days.

Work undertaken over Saturdays is qualified as overtime work and remunerated under the conditions in and according to the amount stipulated in the relevant collective bargaining agreement.

3.6. Bonuses for work done on holidays and at night

Collective bargaining agreements

Allowances for work on holidays and at night are governed by the applicable branch collective bargaining agreements.

Definition of night work

Night work is work between 11 pm and 6 am of the following day. However, if a distribution of working time involves a night shift, night work shall mean eight uninterrupted hours between 22.00 pm and 7.00 am on the following day.

Special protection for overtime and work at night

Particular groups of employees may not be instructed to perform overtime work and work at night (e.g. pregnant employees, parents with young or handicapped children, young mothers, handicapped or elderly employees) without the permission of such affected employee.

An employee has a right to a special protection if he daily works at least three hours at night and/or does night work for at least one third of his full annual working time.

In a period of four months, the working time of a night employee may not exceed eight hours a day on average. Night work for under-aged employees is forbidden. The employer may not order an elderly employee to do night work without the latter's consent.

3.7. Special provisions for certain employees

Certain employees such as management (executive managers or proxy holders) employees, middle-management (leading) employees and employees who perform work from home may agree with the employer in their employment agreements on a different regime with regard to working hours, night work and breaks, as well as daily and weekly rest.

4. Vacation

4.1. Minimum holiday entitlement

Minimum amount of annual leave days

Pursuant to ZDR-1, every employee is entitled to at least 4 weeks of paid annual leave (20 days for a five day week, 24 days for a six day week etc.), of which at least two weeks shall be consumed together.
The following persons are entitled to extra leave of at least three additional

days: elderly employees, disabled employees, employees with an at least 60% physical impairment, as well as employees nursing a disabled child. Employees taking care of children are entitled to one additional day of annual leave for every child under the age of 15 years.

In addition, collective bargaining agreements stipulate additional days of annual leave for particular events (e.g. weddings, relocations, death of near relatives etc.)

Proportionate annual leave

The employee whose agreement is terminated prior to the end of the calendar year is only entitled to 1/12 of the annual leave for each month of employment in the respective year and as a consequence is only entitled to proportionate holiday allowance.

4.2. Expiry of holiday entitlement

Holiday consumption

As a rule, the employees must consume their entire holiday allowance before the end of a calendar year. The employer may request that the employee uses at least two weeks of annual leave for the current calendar year.

Transferral to the following year

Should an employee not use his entire annual leave (with the exception of special additional holidays), the remaining holidays are carried forward to the next calendar year but must be used before 30th of June of the following year. If the employee was not able to use the entire annual leave in a calendar year due to illness or injury, maternity leave or leave to take care of a child, the employee may use it by up to 31 December of the following year.

Prohibition of repayment

Unused annual leave may only be paid in lieu if an employee was objectively unable to use it before the end of the employment relationship.

5. Illness/Absence from Work

Continued remuneration/sickness pay

In case of sickness the employer shall provide minimum wage compensation for the first 30 working days of each sick leave but only up to 120 working days in a calendar year, i.e.: (i) 100% wage compensation in cases of accidents at work or occupational disease; (ii) 90% wage compensation for cases where living tissue and organs are transplanted for the benefit of another person, for the effects of donating blood and in cases where isolation is ordered by the doctor; (iii) 80% wage compensation in case of disease and if the employee stays at home to nurse and assist a family member if so prescribed by the doctor; and (iv) 70% for accident outside of work. Collective bargaining agreements may however prescribe sick pay that

is more favourable to the employee. Sick pay is paid by the responsible social insurance institution for the subsequent time.

Annual entitlement to sickness pay

In cases of occupational as well as non-occupational illness, wage compensation is only provided by the employer for a maximum of 30 working days for each case of illness. Nevertheless, a maximum of 120 days per year applies in cases of non-occupational diseases, irrespective of the number of sick leaves per year.

Medical confirmation

The employee is obliged to notify the employer about his absence on the first day of absence. However, a medical certificate or verification may be presented at a later stage.

Medical examination

The employer may request that a medical examination of the employee be carried out.

6. Termination of employment

General information

Employment may end upon ordinary or extraordinary termination by either party, by mutual agreement, by court verdict, by law, by lapse of time (in case of fixed-term employment) or through the death of the employee.

Termination by mutual agreement

Employment contracts may be mutually terminated at any time. However, such an agreement must be in writing and must include instructions as to the legal remedies (such as that the employee loses all rights/benefits from unemployment insurance in cases of mutual termination).

Probationary period

Probationary periods may last from one to six months, while the exact duration depends on the category of employment. The employee or the employer may (due to unsatisfactory work in the probationary period) terminate the employment relationship during the probationary period, with a notice period of 7 days.

Termination without notice

Termination without notice is only admissible in cases of extraordinary termination.

Termination due to lapse of time

An employment contract may only be extraordinarily terminated if the termination notice was delivered to the employee within 30 days (or 6 months at the latest) of the incident justifying termination.
Fixed-term employment agreement ends automatically upon completion of the stipulated term. Implied continuation of the employment constitutes employment for an unlimited period of time.

6.1. Formal requirements for termination by the employer

Written form

The termination of the employment relationship must be in writing and the reasons for termination must be stated. Termination of the employment agreement not made in writing is invalid.

Prior notification

In certain cases, the employer must communicate his intention to terminate the employment relationship to the affected employees in advance and allow them to defend themselves in a pre-termination interview (e.g. in case of termination due to reasons of incapacity, culpability as well as extraordinary termination). Collective bargaining agreements may further stipulate preliminary as well as ordinary procedure for terminations.

Mass redundancies

The collective dismissal of 10 employees out of at least 20 employees, 10 % of all employees in companies with 100 to 300 employees or 30 employees in companies employing more than 300 employees in a period of 30 days requires the employer to negotiate a redundancy program in cooperation with the Employment Service of Slovenia and the affected trade union.

No authorisation required

Regarding the termination of the employment relationship, no general formal permission from a particular governmental agency is required (except in specific cases such as if the employment contracts of employees on parental leave are terminated because the company is being wound up). Protection through the trade unions is provided in the form of participation rights. Nevertheless, such an involvement cannot impede the termination, but merely delay the process.

6.2. Reasons for dismissal

Ordinary termination

The employer may terminate the employment contract only if a justified reason for ordinary termination exists. The reason for a dismissal may be either personal (the employee´s conduct) or business (operational reasons):

— Business reasons
  - re-organisation of work processes,
  - economic circumstances, and/or
  - technological, structural or similar reasons
— Personal reasons
  - incapability,
  - violation of contractual obligations by the employee (culpable behaviour),
  - inability to perform work due to a disability, and/or
  - an unsuccessful probationary period.

Notice periods

If the employer terminates the employment contract due to business reasons or due to the employee's incompetence, the notice period varies between 15 and 80 days, depending on the employee's years of service with the

employer. In case of employment up to one year, the notice period of 15 days applies, whereas for employment for one to two years, a 30-day notice period applies. For every consequent year of service, the notice period gradually extends for two days until a maximum of 60 days. For the period of service above 25 years, the notice period of 80 days is applicable.

If the employment contract is terminated by way of ordinary termination and the employee is at fault, the notice period is 15 days, unless the respective collective bargaining agreement or the employment contract provide for a longer period.

Collective bargaining agreements or individual employment agreements may provide for longer notice period (nevertheless, if the period of service is over 25 years, the notice period cannot be shorter than 60 days).

Severance payment

In case of ordinary termination for business reasons as well as termination for reasons of incapacity, the employer must make a severance payment. The amount of the payment depends on the number of working years (the period of employment with the employer shall also include work done for the employer's legal predecessors) and the average monthly salary. The minimum period of continuous employment required for acquiring severance payment is one year. The severance payment amounts to (i) 1/5 of the basic amount (the basic amount is the average monthly salary which the employee had received or would have received if he had worked during the last 3 months prior to the termination) for each year of employment with the employer if the employee has been employed from one to ten years; (ii) 1/4 of the basic salary for each year of employment with the employer if the employee has been employed for over ten and up to twenty years; and (iii) 1/3 of the basic salary for each year of employment with the employer if the employee has been employed for more than twenty years.

Unless the respective collective bargaining agreement states otherwise, the maximum severance payment amounts to ten times the employee's average monthly salary.

Extraordinary termination

An employment contract may also be terminated by way of an extraordinary termination – i.e. termination without a notice period which takes effect when served to the other party. It may be given by any of the contracting parties, provided that grounds for termination exist and that the continuation of the employment relationship between the parties is no longer possible.

An employer may dismiss the employee without notice on the following grounds:

— gross or intentional negligence which violates the contractual or other employment obligations;
— perpetration of a criminal offence;
— presentation of false information and false proof of eligibility for the job position by the candidate;
— prolonged unjustified absence from work for 5 consecutive days without any justified reason;
— the employee is prohibited by final judgement from performing certain work or is not able to perform it for more than 6 months due to educational or safety measures;
— refusal of the employee to be transferred and to perform work for the transferee;
— absence from work for more than 5 days after the suspension of the contract has been lifted; and/or
— the employee does not follow the doctor's instructions during absence from work caused by illness or injury.

The employer must communicate his intention to terminate the employment contract to the affected employee in advance and allow him to defend himself at a special pre-termination interview, unless conditions exist which mean the employer cannot be expected to grant the employee such interview (e.g. if the employee has assaulted the employer).

Termination by employee

An employee may terminate the employment relationship without giving any reasons to the employer. In case of ordinary termination of the employment relationship, the notice period is 15 days if the person is employed for up to 1 year and 30 days in cases of longer employment. The maximum notice period which can be agreed in the individual or collective agreement is 60 days.

An employee may extraordinarily terminate the employment contract within 30 days after having previously given the employer a reminder that he should fulfil his obligations (employer has 3 working days to fulfil said obligations) and after notifying the labour inspectorate that the contractual obligations have been violated. If the employee terminates the employment relation without notice due to a decisive breach of contractual obligations by the employer (e.g. unpaid salaries, non-payment of social contributions, sexual harassment etc.), the employee is entitled to severance pay and damages at least to the amount of salaries that the employee would have received if the regular notice period had been taken into consideration.

6.3. General protection from dismissal

Trade unions

If mass redundancies are intended, the employer must inform the respective trade unions in advance.

In cases of individual dismissal, the trade union of a dismissed employee membership is - upon the request of the affected employee - entitled to intervene in the termination procedure.

Employee statement

The employer must provide the affected employee with the opportunity to comment on termination and state his position. This does not apply in cases of termination due to business reasons.

6.4. Special dismissals protection

Requirement of approval

The following occupational groups enjoy particular statutory protection against termination:

— member of a workers' council, a works' representative, other employees representatives and an appointed or elected trade union representative;
— if an employee is 58 years of age or older or lacks no more than 5 years until he reaches the minimum requirements for retirement (elderly employees), then written approval is necessary for the termination of the affected employee's contract for business reasons;
— disabled persons (category II and III): only upon fulfilment of the conditions laid down in the regulations governing pension and disability insurance or in the regulations governing employment rehabilitation and the employment of disabled persons; and
— pregnant women, women breastfeeding a child of up to one year of age and parents while on a parental leave in the form of a full absence from work as well as one month succeeding such a leave: only for reasons of extraordinary termination or if the employer's company is being wound up. Preliminary consent from the labour inspector is necessary here.

6.5. Involvement of trade union representatives

Intervention of the trade union in advance

If so requested by the employee, the employer must inform in writing the trade union the employee belongs to when termination begins about the intended ordinary or extraordinary termination of the employment contract. The trade union may give its opinion within six days and may oppose the termination if it considers that there are no substantiated reasons or that the procedure was not implemented in accordance with the ZDR-1. Irrespective of its opinion, the employer may terminate the employment contract of the employee.

6.6. Termination with an offer of a new employment agreement

Termination with offer of new employment

According to Article 91 of ZDR-1 the employer may, when terminating an employment contract for business reasons or because of the employee's incompetence, also offer the employee a new employment contract for another job position. The new job position can be either appropriate or inappropriate for the employee. Employment is deemed appropriate if the same type and level of education is required for the new employment as was required for the performance of work under the employee's previous employment, whereby the same working time as under the previous agreement must be agreed upon. In addition, the journey from the employee's place of residence to the place of work must not take more than three hours in both directions by means of public transport or via the transport organised by the employer.

The employee has to conclude a new employment contract within 15 days of such offer being made. If the employee accepts the offer for an appropriate job position with an indefinite term contract, the employee is not entitled to a severance payment (this right will transfer until/if the employment relationship is terminated in the future). The employee's right to judicial protection is not affected by acceptance. If the employee does not accept the offer for an appropriate job position with an indefinite term contract, the employee loses his right to severance payment.

If the employee is offered an inappropriate job position and does not accept it, the employee is entitled to a full severance payment. If the employee accepts such an offer, the employee is entitled to a proportionate severance payment to the amount agreed with the employer (not stipulated by law).

7. Transfer of an undertaking

Legal basis

The transfer of an undertaking or a part of the undertaking is regulated under ZDR-1.

Automatic transfer of employment relationships

If an undertaking is transferred, all rights and duties from the employment relationship which exist on the day of the transfer between the transferring employer (transferor) and the employees are assumed by the receiving company (transferee).

The transfer of an undertaking may not negatively affect the employees. The transferee must observe all rights pursuant to the collective bargaining agreement applicable to the transferor for the duration of one year after the transfer of the undertaking, unless the collective bargaining agreement expires or a new one is concluded prior to this.

If an employee terminates the employment contract as a result of an objective deterioration in his rights and within two years of the transfer whilst employed by the transferee, such employee is entitled to the same rights that he would have been granted if the employer had terminated the employment relationship for business reasons (among others, severance payment). The contract of the employee should be taken into account by both employers with regards to the duration of the notice period, the amount of severance payment and other rights.

If, after the transfer of employees, the transferee terminates the employees' employment contracts due to the liquidation of the company, the transferor who is the predominant owner (holding more than 25% or more of the share capital) of the transferee is jointly liable to employees for their claims against the transferee arising no later than two years after the transfer. If the employers are not connected companies, the transferor is only subsidiarily liable (i.e. if the transferee fails to pay them).

Notification of union and workers' council

The former employer as well as the future employer must notify the competent union representative or the workers' council of a transfer of business and provide the information in this regard at least 30 days in advance.
Furthermore, efforts must be made to reach a mutual agreement with the union or workers' council at least 15 days before the transfer on all the legal, economic and social consequences of the transfer of business. If there is no trade union at the employer's undertaking, the employees must be adequately informed about the transfer.

8. Co-determination rights

8.1. Unions and business management

Management of the company

According to the Workers Participation in Management Act, the employees can participate in the management of the company as employees' representatives. Said representatives shall sit:

— in the supervisory board or in the management board (company with two-tier system of management),or
— in the management board (company with one-tier system of management).

The number of employees' representatives in the supervisory board shall not be less than 1/3 of all the members and not more than ½ of all members of the supervisory board.

The number of employees' representatives in the management board is determined by the following formula: one employees' representative for every 3 members of the management board.

8.2. Union influence, employer associations

In practice, representation by unions is more widely spread than representation by workers' representatives.

The interests of the employers are in generally represented by the Slovenian Chamber of Commerce. Besides this, several other associations represent the interest of the employers: the Association of Employers of Slovenia, the Chamber of Craft and Small Business of Slovenia etc.

8.3. The establishment of workers' representation entities

The establishment of employee representation entities (such as workers' councils in larger companies or individual works' representatives in smaller companies) is not mandatory. Pursuant to the ZSDU, employees are free to organise and establish their own representation entities. A large number of companies, particularly small ones, do not have any workers' representation entities in place.
Workers' councils may be formed in companies with more than 20 employees who have active voting rights upon the employees' request. In smaller companies, the function of the workers' councils is performed by an individual worker's representative, known as a worker's trustee.

8.4. Rights of workers' representation entities

Right to notification and access to relevant information

Workers' representation entities are entitled to notification (particularly to study the relevant documents) regarding any modifications of the work process, the economic situation of the company, progress with regards to company goals, annual reports and modification of the company objectives.

Consultancy obligation

If new developments occur with regards to human resources issues, the health and security of employees and the statutory legal position of the company (such as a modification of the internal acts, sale of the whole or a large portion of company, liquidation of the company as well as any change in its ownership) then, prior to adopting a resolution, the employer must consult workers' representation organisations.

Right to co-decision

In certain cases, the employer is only authorised to adopt a measure/decision with the agreement of representational organisations or after having already been granted consent (e.g. regarding the measures for the evaluation of the

performance of employees or promotions, measures on decisions about the annual leave etc.). The workers' council has to take a position on the proposals for the decisions/measurements of the employer within a period of eight days. If a decision is not taken, it is assumed that the workers' council agrees with the proposal.

Veto and arbitration

Workers' representatives have the power to veto employer's resolutions (but must initiate arbitration) if the employer violates the employees' rights to notification or does not consult workers' representatives, even if the employer is obliged to do so pursuant to the provisions of the ZSDU.

If conflicts arise, the arbitration procedure shall be defined by the relevant provisions of the ZSDU.

Termination of employment relationship

Pursuant to the provisions of the ZDR-1, workers' representatives enjoy special protection from termination of their employment relationship for the period of their representational activity as well as for the duration of one year thereafter. Representatives may only be dismissed with the consent of the relevant union or the organisation that elected them.

8.5. Garden leave

Right to garden leave

The institute of garden leave is not specifically regulated in Slovenia. During the notice period, the employer and employee have the same rights and obligations as before notice was served, meaning that work continues as usual. However, ZDR-1 provides for an exception to this rule if termination is due to behaviour which fulfils the legal elements of a criminal offence. In this case, the employer may prohibit the employee from performing work during the period, in exchange for compensation amounting to 50% of the average monthly salary in the last 3 months before termination.

Please note that in practice some employers enable employees to stay at home during the notice period if the employer is no longer able to provide work to the employee after the termination notice was served due to business reasons or incapacity. In such cases, the employee is entitled to 100% salary compensation.

8.6. Provision to provide material conditions for work

Working space

Before adopting an internal act which regulates the organisation of working process and the rights and duties of the employees, the employer is obliged to notify the unions and/or the workers' council, which have 8 days to state their opinion. The employer is obliged to consider their opinion, but is not obliged to consider this when making a final decision.

If neither a workers' council nor a union exist at the employer's undertaking, the latter shall notify the employees in a manner which is common practice in the company.

8.7. Collective Agreements

If an employees' organisation representing employees exists at the workplace, a collective agreement may be concluded between the employer and the employees' organisation. The provisions of the collective agreement apply to all employees irrespective of whether they are members of the employees' organisation or not. All unilateral deviations from or breaches of a collective agreement are treated as a breach of contract.

9. Disputes in labour courts

Courts

Disputes resulting from employment relationships are settled in front of the Labour and Social Courts, which consist of one professional judge and two lay-judges. Specific matters may however also be decided by a single judge. An appeal to the Labour and Social Court can be lodged with the Higher Labour and Social Court in Ljubljana. Finally, parties may seek legal remedies against the decisions made by the Higher Court before the Slovenian Supreme Court.

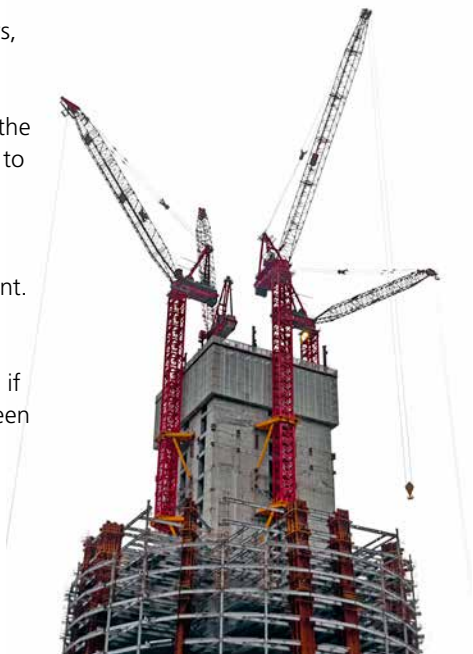
Arbitration

ZDR-1 promotes a peaceful settlement of labour disputes by providing for procedures prior to a court dispute such as arbitration and/or mediation by an independent third party or by a labour inspector.

Parties to the employment contract may decide to settle their dispute by means of mediation. If the latter is not successfully completed within 90 days, the employee then has 30 days to file a lawsuit before the competent court.

Employers and employees may arbitrate any other disputes resulting from the employment relationship, if agreed upon in writing. All provisions relevant to the arbitration procedure are stipulated in ZArbit.

Thus, an individual labour dispute may also be settled in an arbitration procedure, if so prescribed in the applicable collective bargaining agreement. According to the Collective Agreements Act, the procedure for settling collective labour dispute should be first agreed upon in negotiations. The collective labour dispute should only be settled by mediation or arbitration if this fails. Pursuant to ZSDU, arbitration in a collective labour dispute between the employer and the workers' council is a prerequisite for any further



proceedings in a court of law. Any party may initiate arbitration by suggesting this procedure to the counterparty (by naming the first member of the arbitration board). The second member of the board must be nominated by the counterparty, whereas the third member shall be mutually nominated. Such an arbitral award is final.

10. Social insurance charges

General

Slovenian social insurance covers illness (after the 31st day of illness), unemployment and disability.

10.1. Social insurance charges

Social insurance

Currently, employers must pay social security contributions amounting to 16.10 % of gross monthly salary and the employee must pay 22.1 % of gross monthly salary.

Health insurance

Currently, health insurance contributions amount to 6.56 % of the gross monthly salary for the employer and 6.36 % for the employee.

10.2. Statutory retirement age

Pursuant to the Pension and Disability Insurance Act, the statutory retirement age is 65 with 15 years of insurance coverage for men and for women 60 with 40 years of insurance coverage. Please note that transitional provisions shall be applicable until 2019, which means that retirement is possible at a lower age during this period.

The right to a pension may only be acquired at a lower age in certain very limited cases. The age required for retirement can be decreased if an employee has, for instance, cared for his/her children, served in the army, worked before his 18th birthday and thus begun into the insurance scheme, etc.

10.3. Pension calculation

The employee´s exact pension depends on the employees' income over a certain period of time (the average salary of the best 24 consecutive years after the year of 1970 is taken into consideration) and the total amount of months the employee has contributed to the pension fund.

Average pension amount

Currently, the average net pension amounts to 620.06 euros (August 2017).

Maximum pension amount

Currently, the maximum net pension amounts to EUR 2,687.22 (August 2017).

10.4. Private retirement pension schemes

Pension fund

Aside from the statutory retirement pension, employees may also conclude pension plans with private retirement pension insurance providers.

Both individual and collective pension schemes are possible. However, a prerequisite for an additional collective pension is that the employer subscribes to an already existing retirement insurance fund or establishes such a fund himself. The employer is obliged to insure all employees who decide to join the additional retirement insurance plan.

Deductibility

Employers who pursue the option of establishing a private pension fund may, pursuant to certain conditions, claim a reduction on their corporate income tax basis for up to 24% of the obligatory pension and disability contributions paid per insured employee, but no more than EUR 2,819.09 per year in 2017. Amounts equal or lower than the latter limits are not considered income from employment from the employee's perspective.

10.5. Unemployment benefit schemes

Entitlement to unemployment allowance

An employee who has lost his job and is registered with the labour office is entitled to unemployment allowance if he was employed for at least 9 (or 6 months, should an individual be below the age of 30) months in the last 24 months. Unemployment allowance is granted for a maximum of 25 months.

Amount of unemployment allowance

The amount of unemployment allowance is calculated based on the average salary the employee received in the 8 months prior to the month when his employment was terminated.

In the first three months of unemployment, the employee is entitled to 80% of the established average salary, 60% in the next nine months of unemployment and 50% after the first year of unemployment.

The unemployment allowance may in any case not be lower than 350 EUR or higher than 892.50 EUR.

Financing of unemployment insurance

Contributions to unemployment insurance are paid by the employer as well as by the employee.

The employee pays unemployment insurance at a rate of 0.14 % of his gross salary, whilst the employer pays unemployment insurance at a rate of 0.06 % of the employee´s gross monthly salary.

This brochure merely offers general information and can under no circumstances replace legal advice.

Please note that despite diligent handling, all information in this brochure is provided without engagement and any liability of the author or publisher is hereby explicitly excluded.

Index of abbreviations:

RS	Republic of Slovenia
ZArbit	Act on Arbitration (Zakon o arbitraži; Official Gazette of the RS, Nr. 45/2008)
ZDR-1	Employment Relationship Act (Zakon o delovnih razmerjih; Official Gazette of the RS, Nr. 21/2013 et. al.)
ZKolP	Collective Agreements Act (Zakon o kolektivnih pogodbah; Official Gazette of the RS, Nr. 43/2006 et. al.)
ZMinP	Minimum Wage Act (Zakon o minimalni plači; Official Gazette of the RS, Nr. 13/2010)
ZPIZ-2	Pension and Disability Insurance Act (Zakon o pokojninskem in invalidskem zavarovanju; Official Gazette of the RS, Nr. 96/2012 et. al.)
ZSDU	Workers' Participation in Management Act (Zakon o sodelovanju delavcev pri upravljanju; Official Gazette of the RS, Nr. 42/2007 et. al.)
ZZSDT	Employment, Self-Employment and Work of Foreigners Act (Zakon o zaposlovanju, samozaposlovanju in delu tujcev (Official Gazette of the RS, 47/15, 10/17 – ZČmIS in HYPERLINK "http://www.uradni-list.si/1/objava.jsp?sop=2017-01-2772" \o "Zakon o spremembah in dopolnitvah Zakona o zaposlovanju, samozaposlovanju in delu tujcev" \t "_ blank" 59/17)

Ukraine

1. Hiring Employees

1.1. The Employment Agreement

Agreement

In Ukraine, companies generally hire employees based on an employment agreement or employment contract. An employment agreement may be executed as a written agreement signed by the parties or as an employer order.

"Employment contract"

For certain groups of employees (e.g. company directors), Ukrainian law provides for the conclusion of an "employment contract" which can be distinguished from the regular employment agreement. The law allows for employment contracts to contain additional provisions and deviate from default provisions of the law with respect to certain conditions (term, termination grounds, material liability).

Labour book

All Ukrainian nationals are required to have a labour book, which lists their employment history. Labour books are generally provided by the first employer of an employee. It is then the obligation of any further employer to keep the employee's labour book up-to-date and to make entries therein. They are required to include such entries on commencement and termination of employment, professional development, changes of workplace etc.

Choice of law

If work is performed in Ukraine, the employment relationship is governed by the law of Ukraine, unless an international agreement provides otherwise.

Jurisdiction clause

Any disputes arising from employment relationships governed by Ukrainian law fall within the competence of the Ukrainian courts.

1.2. Contracts for services

Civil law agreements

Apart from an employment agreement (or "employment contract", where appropriate), companies engage personnel (commonly registered as private entrepreneurs on a simplified tax scheme) based on civil law agreements.

Under such an agreement a contractor undertakes to perform certain work according to a customer's order (but without being subordinated to the customer), using either his/her own materials or those of the customer. The work is also undertaken at the contractor's own risk.

Written form required

According to the Civil Code of Ukraine, a contract for services has to be concluded in writing.

Contractor cannot rely on employment legislation

As a contract for services is not governed by employment law, a contractor is not entitled to employment law guarantees.

Risks

Engaging personnel via civil law contracts is legally in a grey zone and associated with serious risks related to sham employment.

1.3. Employment of foreigners

Permit for hiring a foreigner

Foreign nationals may be employed in Ukraine only subject to the company obtaining a work permit for them. Generally, such permits are issued for a limited period from one year, as a general rule, up to three years for certain categories of foreign employees, and are renewable for additional periods of the same length.

To be applied for by the employer

The permit for hiring a foreigner must be obtained by the employer.

Sanctions

Allowing a foreigner to commence activities in Ukraine prior to obtaining a work permit will trigger the imposition of a fine on the employer and risk the removal of the foreigner from the territory of Ukraine.

1.4. Special rules for executives?

Generally, executives are subject to employment law. However, as pointed out above (see Section 1.1.), directors can be party to an "employment contract". This gives the parties the option to vary the position under general employment legislation in relation to a variety of issues, such as duration and termination of employment.

2. Remuneration

2.1. Minimum wage

Statutory minimum wage

Employees cannot receive remuneration for monthly or hourly work in an amount less than the statutory minimum salary. The minimum salary is established by law. Currently, the minimum monthly salary is UAH 3,723

(ca. EUR 125). The minimum salary to be paid to foreigners employed in Ukraine, except for certain specific categories, is: UAH 18,615 (ca. EUR 580) for those employed by public associations, charity funds or some other types of NGOs; and UAH 37,230 (ca. EUR 1,160) for all others.

2.2. Reduction of wages

General principle

An employee's remuneration is a material term of an employment agreement and therefore cannot be changed without the employee's consent.

Imposing new terms under a new organisational scheme

However, in the event of the introduction of a new organisational scheme, the employer may need to adapt the remuneration in order to take into account the new working conditions.

In such a case, the employer must notify the employees two months prior to the proposed organisational changes of the intention to reduce their salary. If the employees do not agree to the reduction of their remuneration, the employer can terminate their employment.

3. Working time

3.1. Standard working hours and breaks

Daily and weekly standard working hours

The general statutory maximum is 40 hours per week, which amounts to 8 hours per day in a 5-day working week.

Breaks

As a rule, employees are entitled to unpaid breaks after 4 hours of work, which must not last for more than 2 hours. Rest breaks are normally regulated by internal labour rules (company's by-laws) or policies.

3.2. Minimum rest periods

Daily rest periods

There is no general rule that relates to minimum daily rest periods. However, employees engaged in shift-work must be granted a rest period that lasts for double the length of their previous shift (including the break time for lunch).

Weekly rest periods

Weekly rest periods must be continuous and must be for at least 42 hours.

3.3. Overtime work

Permissible only under certain circumstances

Generally, overtime work is not permitted. Although there are numerous exceptions provided for by law, which, generally, are very specific and relate to emergency situations or special types of businesses.

Overtime work can only be carried out subject to the permission of the trade union committee if a trade union has been established at the company.

Approval of the trade union required

Moreover, the employer has a duty to keep records of any overtime work that an individual employee performs.

Duty to keep records of overtime work

Overtime work must not exceed 4 hours in 2 consecutive days and 120 hours per year.

Maximum hours of overtime work

Certain categories of employees may not be engaged for overtime work (e.g., pregnant women, women with children of up to 3 years of age and persons under eighteen years of age). Other categories of employees can perform overtime work, only subject to their consent (e.g., women with children aged 3 - 14 years or with a disabled child).

Special restrictions for certain groups of employees

Some categories of employees (e.g. executives, employees whose working hours are not possible to fix) may be engaged under a special regime of working hours (variable (irregular) working hours), which will not be considered overtime work. Employees with variable working hours are entitled to up to 7 days of additional paid annual leave.

Special regime for executives

Overtime must be compensated for generally at a double hourly rate for each hour of overtime.

Compensation for overtime work

3.4. Working during the weekend and on public holidays

As a rule, working during weekends and public holidays is prohibited.

General rule with exceptions

Work of an employee at the weekend may be subject to the approval of a trade union (if a trade union is established at the company).

Approval of the trade union required

Employees working at weekends must be compensated at double their hourly rate. An employee may agree with the employer to be compensated for work at weekends by additional day(s) off.

Compensation

3.5. Premiums for night-work and work on public holidays

Night-work (between 10 p.m. and 6 a.m.) must be compensated with a premium, determined by a collective bargaining agreement in the amount of at least 20 percent of the basic hourly rate.

Night-work

Employees working on public holidays must be compensated at a double hourly rate. The employee may decide to get additional day(s) off as compensation for work on public holidays.

Work on public holidays

4. Paid annual leave (holiday)

Minimum holiday entitlement

Employees are entitled to at least 24 calendar days of paid annual leave after working for an employer for six continuous months. Before the expiration of this six-month period, employees can take paid annual leave on a pro rata basis for the time they have been employed.

Enhanced entitlement of paid holidays

Ukrainian law establishes longer minimum paid annual holidays (from 28 to 56 calendar days) for certain professions or industries, persons with disabilities, and young employees below 18 years of age.

Holiday consumption

If an employee does not take the holiday during one year, the holiday can be carried over to the next year.

Annual leave can be partially replaced, at the request of the employee, by a payment in lieu, although only for the part exceeding 24 calendar days.

5. Sick pay

IGeneral description

Employees who are unable to work due to sickness or other temporary disability are entitled to compensation for the entire period of their absence from work. The fact of sickness or other temporary disability and its expected duration must be certified by a registered medical practitioner.

Compensation

Compensation is paid by the employer for the first five days of sick leave and by the State Temporary Disability Fund for the remainder of the time.

Certain employees' exemptions

Certain employees (e.g., war veterans and persons affected by the Chernobyl nuclear accident) are entitled to receive 100 percent of their average salary as compensation for sick leave regardless of their length of employment.

6. Termination of Employment

6.1. Formal requirements to be observed by the employer

Notice periods

This depends on the grounds for dismissal. The statutory minimum notice period is two months if the case involves redundancy. In certain cases, (e.g. where there has been a single gross violation of employment duties), notification is not required.

Employees can voluntarily terminate an employment agreement by giving 2 weeks' notice.

Written form and work employment record

In all cases, a decision regarding dismissal must be made in the form of a written order, signed by a duly authorised representative of the employer. The employee is to be provided with a copy of the dismissal order and his/her labour book on the last day of his employment.

Payment of all monies due

In all cases of dismissal, an employer must pay an employee whose employment is being terminated all payments due under the employment agreement (e.g. salary and compensation for any of the employee's annual vacation accumulated but not used during his term of employment with the employing company). Voluntary severance payments are also subject to negotiations between an employer and an employee.

6.2. Limited reasons to terminate the employment

Most common "valid reasons"

Valid grounds for termination may be divided into those related to the employee's breaches of employment duties ('termination with cause on the part of the employee') and those not related to the employee's actions ('termination without cause'). Termination is not generally allowed while an employee is on annual or sick leave.

An employer may unilaterally terminate an employee's employment with cause in the following cases:

- systematic unjustified failure to fulfil employment obligations,
- unjustified absence from work for more than three hours during one day,
- appearance at work while under the influence of alcohol or drugs,
- misappropriation of property,
- a single gross violation of employment obligations,
- actions of a company head causing delayed or reduced payment of wages,
- immediate subordination to a related party contrary to the Ukrainian law 'On Preventing Corruption',
- actions of an employee entrusted with company assets (cash or property) that result in the loss of the employer's trust, or
- immoral conduct.

Additional reasons for termination

An employer may terminate an employee's employment without cause in the following cases:
— changes in the organisation of work and production (redundancy),
— the employee's unsuitability for the job or position due to lack of qualifications or health conditions,
— reinstatement of an employee who previously occupied the position; or – absence from work due to sickness for more than four continuous months,
— recruitment to the army or mobilisation of an employer-natural person within a special period, or
— the employee's unsuitability for the job or position found within his/her probation period.

6.3. Collective Redundancies

Definition

Currently there are no specific rules for collective redundancies in Ukraine, i.e. the redundancy procedure is the same irrespective of the number of people being made redundant.

Applicable law defines 'collective redundancy' as a one-time dismissal or series of dismissals following a decision by the employer made within one month, if
— ten or more employees have been dismissed from a company employing 20 to 100 individuals; or
— 10% or more of the company's workforce have been dismissed from a company employing 101 to 300 individuals; or
three months, if
— 20% or more of the company's workforce have been dismissed, irrespective of the total number of staff.

GeNotification of a state authority required

In cases of redundancy, the employer must comply with the following notification and consultation requirements:
— it must inform the trade union at company level (if one operates within the company) about the redundancies being considered. The notice must be given within three months following the date on which the decision on the redundancies was adopted, but no later than three months before the date being considered for the redundancies to take place. In light of the aforementioned time requirements, it is advisable to notify the trade union promptly after the decision on redundancies has been made;
— it must give the employees notice of the redundancy two months in advance;
— in the case of collective redundancy, it must give the State Employment Centre notice of the redundancies being considered, two months in advance.

6.4. Involvement of the trade union

Notification and consultation

In cases involving redundancies, the employer must notify and consult with the trade union at company level (if such a union operates at the employing company). In some cases, moreover, the employer is required to obtain prior consent from the trade union at company level (if one operates) to terminate the employment of trade union members. Such cases can include redundancy (with the exception of cases in which the redundancy is caused by the liquidation of the employing company).

6.5. Employees with special protection against termination of employment

Protected groups

The employment of certain categories of employee cannot be terminated by an employer without their prior consent. This 'protected' category of employee includes:

— pregnant women;
— women with children of up to 3 years of age (or up to 6 years of age depending on the circumstances);
— single mothers with children of up to 14 years of age (if the child is disabled: up to 18 years of age);
— young workers (up to 18 years of age);
— employees on maternity, annual or sick leave;
— trade union officials.

The law only allows the employment of 'protected' employees to be terminated if the employer is liquidated without legal succession. Under these circumstances, the law requires that they be paid their average wages for three months following the termination.

7. Business transfer

No effect on employment relationships

Ukrainian law does not provide for any automatic transfer of employees in the case of a transfer of business.

8. Industrial relations

8.1. Trade unions and staff representatives

Trade unions and the management of the business

Trade unions may be established at the company at a local, regional, or national level. At companies where a trade union has not been formed, general meetings of employees have representative powers.

Participation

Participation in a trade union is voluntary and may not serve as the basis for discrimination or preferential treatment by employers. Trade unions must act according to their charters and are legalised through notification of the government. Any employed or self-employed person or a student may join a trade union by submitting an application.

Written form required

8.2. Collective Agreements

Parties of a collective agreement

Collective agreements are entered into between an employer and employee representatives (either a trade union or a representative elected at the general meeting of the employees).

Issues that may be dealt with

Collective agreements may cover a great range of issues that are more or less closely related to employment. Any provisions of a Collective Bargaining Agreement that worsen the employee's rights and guarantees in comparison to those granted by law are invalid.

Application

A Collective Bargaining Agreement, if concluded, automatically applies to all employees in the company.

9. Employment Disputes

9.1. Individual employment disputes

No special labour courts

Individual employment disputes are generally considered by the general courts under general civil procedural rules. There are no special labour/employment courts.

10. State Benefits

General background

The social security system covers a variety of social risks, including maternity, sickness, disability and unemployment.

10.1. Contributions for social insurance

Calculation of contributions

Social security contributions are paid on top of the salary amount solely at the cost of the employer. They amount to 22% of the employee's salary with a cap currently at UAH 55,845 or appr. EUR 1,800 per employee.

10.2. State pension

Retirement age

In Ukraine, the pension age is 60 for both women and men (a special pension age scale from 55 to 60 years of age applies to women born in 1961 or earlier).

Private pension systems

A private pension is not mandatory and provides an additional benefit to the mandatory state pension provision. Private pension provision is provided by pension funds (public, corporate and professional/industry oriented pension funds), insurance companies and banks.

10.3. Unemployment benefits

Unemployment benefits

Unemployed people are supported by the state. This mainly consists of unemployment benefits and training programmes, which aim to help individuals gain new qualifications and find new employment.

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