

## NEW LABOR CODE IN HUNGARY



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**O**WING to the severe impact of the economic crisis on the Hungarian economy, increasing employment has been at the very heart of the Hungarian government's economic policy.

The government has also declared the need to increase the level of flexibility in employment contracts to enable the Hungarian economy to respond more effectively to the changing economic climate. To this end, the government launched a complete overhaul of current labor legislation, the result of which was the introduction of a Bill to the Hungarian Parliament on 26 October 2011.

It is anticipated that the new Labor Code will be adopted in mid-December 2011 and come into force on 1 July 2012.

Although the new regulations have been criticised heavily by trade unions for decreasing employee rights and cutting back salaries, the government is determined to adopt this new approach. Providing Parliament passes the Bill without major amendments, as is looking likely, the new Labor Code will introduce significant changes to most elements of the employment 'relationship'. These include:

### DEVIATION FROM THE RULES OF THE LABOR CODE

The new regulations will preserve the general rule that individual employment agreements may only deviate from the rules of the Labor Code in favour of the employees. However, unlike the current system, collective bargaining agreements may also be able to deviate from the rules - to the disadvantage of employees. This conceptual change is supposed, and is likely, to intensify the collaboration between employers and the trade unions.

### TERMINATION

Under the new regulations, for a maximum period of one year from the start of employment, the right to terminate employment can be postponed, should both parties agree.

In contrast to the current rules, under certain circumstances definite-term employment relationships may be also terminated before their natural expiry, by giving notice.

The legal consequences of unlawful termination will significantly change as the new regulations will cap the entitlement to compensation to be paid by the employer for lost salary at 12 months' average remuneration. In addition the new Labor Code will abolish all penalty payments by the employer in cases where termination is found to be unlawful by the court.

### SEVERANCE PAY

The new Labor Code will remove any entitlement to severance pay if the reason for termination is in connection with the behaviour, or the abilities, of the employee.

### BUSINESS TRANSFER

Unlike in some European countries, the new Labor Code will still not require employees' consent for any change in employer owing to the transfer of the business. However, employees will have the right to terminate their employment if the new employment conditions cause 'excessive grievance' to them. In such cases they will be entitled to the same remuneration as if the employer had initiated the termination (e.g. severance pay, salary for release period).

### COMPULSORY MINIMUM SALARY

In contrast to the present minimum salary regime, the new Labor Code includes the government's right to determine a varying level of minimum salary for different types of employees (e.g. employees working at different levels or in different geographical areas).

### LIABILITY FOR DAMAGE

Based on the current system, the Labor Court developed extensive employer liability for damage suffered by employees. It is a clear goal of the new regulations to narrow such extensive liability of employers. Under the new rules, employers will be liable for damage suffered by employees only within the employer's sphere of control.

The new Labor Code raises the cap of employees' liability for any damage caused to an amount equal to four months remuneration. In addition, employees will be liable for the full amount should it be caused by gross negligence or wilful misconduct.

### NON-COMPETITION OBLIGATIONS

Non-compete obligations currently stand at a maximum of three years. Under the new Labor Code the term of non-compete agreements cannot exceed two years from the date of termination of the employment relationship. The new regulations will, however, reduce the amount of minimum compensation from 50 per cent to 30 per cent of the base salary. ■

*At the time of writing these are the main anticipated changes in Hungarian employment law. For more accurate assessment once the proposals become law, please contact the authors.*

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