



NEWSLETTER 3/2017

Novelization of the Labour Code 2017

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- The prepared **novelization of the Act No. 262/2006 Coll., the Labour Code**, is currently being discussed by the Czech Parliament (the Parliamentary Press No. 903), where the 1st phase (reading) of legislative procedure was completed on 6th December 2016.
- **The novelization** should become effective as of **1st July 2017**; except for provisions concerning annual leave, which is scheduled to become effective as of **1st January 2018**.
- **The aim** of this rather large novelization is to reinforce the **principle of so-called flexicurity**, i.e. realization of the changes in order to deepen the flexibility of elementary labour-law relations while increasing protection of employees.
- **Fundamental changes** introduced by the novelization will be especially the following:
 - (i) introduction of a new legal term „top-level managing employee“;
 - (ii) more detailed rules for home office;
 - (iii) new regulation of agreements on work performed outside of an employment relationship;
 - (iv) simplified procedure for delivery of documents;
 - (v) new rules for calculation, provision and reduction of the annual leave;
 - (vi) other (minor) changes.

I. TOP-LEVEL MANAGING EMPLOYEE

- **Definition:** The agreement between the employer and the employee may define as the top-level managing employee only
 - (i) a managing employee which is directly subordinated to
 - the employer's statutory body in case of an legal entity,
 - the actual employer in case of an individual (natural person), or
 - (ii) a managing employee which is directly subordinated to any of the managing employee mentioned under the point (i) above;provided that the salary of such employee will reach the statutory limit of minimum **of CZK 75,000** per month.

- **Characteristics:** The top-level managing employee
 - (i) will be permitted to entirely and independently schedule his working time and this working time will already include any eventual overtime work (in the scope of **up to 48 hours weekly**);
 - (ii) will not be entitled to any **extra pay** for overtime work, night work or work during public holidays, on Saturdays or on Sundays;
 - (iii) will have no right to any wage compensation due other important personal obstacles, **except for sick pay**.

II. HOME OFFICE

- The novelization embodies more detailed rules for performing work outside of the employer's workplace, especially:
 - (i) the possibility to negotiate the conditions for home office in the employment contract or in the agreement on work performed outside the employment relationship;
 - (ii) the statutory obligation of the employer to reimburse the employee's expenses linked to communication, as well as other expenses, which can arise during the performance of such work. It will not be possible to include these expenses in the employee's salary, but is it possible to agree these on a lump sum basis;
 - (iii) data protection obligation from the employer's side as well as from the employee's side;
 - (iv) the employer's obligation to prevent the employee from isolation;
 - (v) **the application of the following provisions of the Labour Code will be exempt for home office:**
 - scheduling of working hours, downtime and adverse weather conditions;
 - extra payment for overtime work, night work or work during public holidays, Saturdays or Sundays;
 - wage compensation due other important personal obstacles (except for sick pay).

III. OTHER CHANGES

- **Agreements on work performed outside of employment relationship:** by way of example the employer is newly obliged to:
 - (i) provide to the employee at least the amount of the **guaranteed wage**;
 - (ii) **keep records of the worked hours**;
 - (iii) allow the employee to use statutory **rest at work** according to the Labour Code, such as uninterrupted rest between two performances of work or uninterrupted rest during the week etc. (except for annual leave).

- New legislation contains also **completely new method for calculating the entitlement to annual leave**, especially:
 - (i) an annual leave calculated on the basis of the days worked is cancelled as the annual leave will be newly calculated only on the basis of the actual **hours** worked;
 - (ii) in order to constitute any entitlement to a proportional part of the annual leave, the employment must last at least 4 weeks;
 - (iii) more possibilities to transfer any unused annual leave to the following calendar year;
 - (iv) new rules for reduction of the annual leave. It will be possible to reduce an employee's entitlement to annual leave solely due to his unexcused absence and only by the number of the actual hours of unexcused absence. Nevertheless, the employee must be provided with minimum of 3 weeks of annual leave.

- Other **changes also include**: a cancelation of the institute of transfer of the employee and its replacement by an agreement on change of a place of work performance; employer's obligation to reemploy the employee in his/her original working position and workplace after the return from the paternal leave; specification of conditions of transfer of rights and obligations; the employer's obligation to prevent employees from stress.

We hope the above summary will ease your orientation in the new legislation. We are available for any of your additional requests or information.

Editor: JUDr. Magda Stárková, advocate, e-mail: starkova@akvk.cz

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