

Hungary: The Three Most Important Changes Introduced by the New Hungarian Labour Code Effective as of 1 July 2012

A new Labour Code will enter into force in Hungary on 1 July 2012. The New Labour Code is much less employee-friendly than the current legislation. Below, we summarise the three most important changes the new Labour Code will bring about.

Consequences of unlawful termination by an employer

After 1 July 2012, if the employee claims that the termination of his or her employment was unlawful, the main rule will be that the employer will have to pay damages. Currently, the main rule is that the employer must reinstate the employee in his/her original position.

The new Labour Code also contains a certain limit on the amount of the damages that an employer may be required to pay as compensation for lost salary. This limit is set at 12 times the monthly "absence pay" of the employee. Currently, the employee is entitled to claim the lost salary until the court judgement establishing that the termination was unlawful becomes final and binding (a process that might even last several years). Thus, currently, the amount of the lost salary depends on the duration of the court proceedings and can be very high.

Non-compete undertaking

A further important change is that in contrast to the current Labour Code, the new Labour Code will contain rules regarding the calculation of the compensation for a post-termination non-compete undertaking. Pursuant to the new Labour Code, the parties must take into consideration to which extent the undertaking (especially with regard to the employee's education and experience) prevents the employee from finding another equivalent job. This is only a guideline and not an exact formula.

The new Labour Code, however, sets forth that at least one-third of the employee's salary is payable to the employee for the duration of the non-compete undertaking for a non-executive employee. Pursuant to the current court practise, the employer must pay 50% of such an employee's salary.

The duration of the non-compete obligation will also change. In the case of a non-executive employee, its maximum duration will be 2 years instead of the current 3 years.

Increased liability for employee negligence

Finally, the new Labour Code contains an increase in the non-executive employee's liability for damage caused to the employer through negligence. Under the current Labour Code, if the non-executive employee causes damage through negligence, the employee is liable only up to one-half of his/her average monthly earnings (or a maximum of 1.5 months average earnings if the employer and the employee so agree in the employment contract, or a maximum of 6 months average earnings if the collective agreement so provides), whereas the non-executive employee is liable for the entire amount if the damaged was caused intentionally.

The new Labour Code foresees different rules of indemnification: if the damage is caused by slight negligence by a non-executive employee, the indemnification may not exceed 4 months' "absence pay" (or a maximum of 8 months' "absence pay" if



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the collective agreement so provides); whereas the non-executive employee must pay the entire amount if the damage was caused intentionally or by gross negligence.

Rules on the transition

The act containing the rules on the transition from the Labour Code to the New Labour Code (which will govern the existing labour contracts and amend the New Labour Code) was adopted by the Hungarian Parliament on 18 June 2012. However the final consolidated version of the rules on the transition is not yet available. Thus, the above-mentioned elements may be subject to slight changes.