

FEDERATION OF BOSNIA AND HERZEGOVINA

CHANGES AND AMENDMENTS TO THE LABOUR LAW

On 9 November 2018, the Law on Changes and Amendments to the Labour Law of the Federation of Bosnia and Herzegovina (initially adopted in 2016) was published in the Official Gazette of the Federation of Bosnia and Herzegovina, entering into force eight days after publishing.

Some of the main changes introduced with the amended Labour Law refer to the following:

- shorter deadline for registration of employees with the competent tax and social institutions (right at the beginning of employment instead of 15 days from the date of conclusion of the employment agreement);
- obligation of employers to establish recruitment procedures in employment rulebooks, whereby in case of agencies and other administrative organisations, public institutions and public companies founded by the Federation of Bosnia and Herzegovina, canton, city or municipality, as well as in case of companies where the Federation of Bosnia and Herzegovina, canton, city or municipality appears as a shareholder of more than 50% of the total share capital of the respective company - job advertising should be public;
- possibility to exceptionally use the annual leave for longer than 30 days (as statutory maximum under the applicable Labour Law), having in mind specifics and terms of work, if such possibility is provided by collective agreement;
- obligation of employers to structure the variable part of the salary, having in mind specifics and need of business operations, in accordance with applicable laws and employers' internal acts. In addition, variable part of the salary, if achieved, constitutes the integral part of the salary, together with the basic salary and the increased salary in cases set out in the Labour Law;
- employment agreement shall be terminated, inter alia, (i) once employee reaches 65 years of age and 15 years of insurance (under the rules of pension and disability insurance), unless employee and employer agree otherwise, and (ii) once employee reaches 40 years of insurance coverage, regardless of years of age, unless employee and employer agree otherwise;
- in case they find that employers violated some of their employment related rights - obligation of employees to first address their employers with a request for remedy within a set deadline before turning to the competent court seeking protection. This obligation will not apply in case of termination of employment agreements;
- general right of employees elected to some public position within organs of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, canton, city and municipality as well as employees elected to professional position within trade union to return to work following completion of the mandate, under the legally prescribed deadlines. This is not an absolute right and may not apply in case there is no more need for such work, due to organisational, technical or economic reasons, in which case employees are entitled to the severance payment;

- failure to pay the salary and pertaining contributions within the set deadlines for unjustified reason may result in imposing monetary fines to employers in the amount ranging between BAM 1,000 and BAM 3,000 (approx. EUR 500 – EUR 1,500) (for the repeated offence – BAM 5,000 – BAM 10,000 (approx. EUR 2,500 – EUR 5,000)), whereby the employers' authorized representatives may be monetary fined in the amount ranging between BAM 2,000 and BAM 5,000 (approx. EUR 1,000 – EUR 2,500).

Although the Law on Changes and Amendments of the Labour Law does not entail comprehensive changes in Labour Law itself, the adopted changes and amendments should for sure enable its more adequate implementation in practice. On the other hand, it remains to be seen whether they will adequately tackle and remedy some identified negative practices, primarily those referring to recruitment in the public sector.

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