Client Alert

Croatia introduces significant changes in its employment legislation

January 2023

As of 1 January 2023, Croatian employers should start with the implementation of new employment rules not only in employment agreements and internal documents but also in practice. After years of discussion between all involved parties, the amendments to the Labour Act were passed mid-December 2022 and entered into force on 1 January 2023 (apart from certain provisions which will enter into force on 1 January 2024).

Additionally, the newly introduced Act on Elimination of Unregistered Work sets out rules aimed at combating non-payment of salaries, salary add-ons and contributions as well as hidden/unregistered employment, which entered into force on 1 January 2023 as well.

The main provisions are summarised below, with the aim to assist companies to streamline and plan the implementation process and adapt existing practices.

1 Amendments to the Labour Act

Summary – practical next steps

Existing rules and procedures should be carefully examined and updated. We suggest to:

- Take a close look at existing employment practices and documents, particularly employment agreements. All employment agreements entered into after 1 January 2023 should comply with the new statutory rules. It should be assessed on a case by case basis whether an existing employment agreement should be amended as well, in order to make use of certain new statutory possibilities.
- Comply with statutory requirements (especially in relation to new statutory requirements for the appointment of dignity officers) and update internal bylaws at the latest by 1 July 2023.

New rules to start employment

Mandatory contents of employment agreements. The list of mandatory provisions of the employment agreement has been expanded, which means that going forward employment agreement templates should be amended.

Fixed-term employment. One of the most significant changes relates to the duration and justification of entry into the fixed-term contract (FTC):

- Entry into the FTC should be an exception (and permanent contracts a rule); therefore, not more than three consecutive FTCs with a maximum total duration of three years, including the first agreement may be entered into (certain exceptions apply).
- FTCs may be entered into only if one of the following objective reasons exists: (i) replacement of a temporarily absent worker, and / or (ii) the need for performance of work that is limited by a deadline or an event.
- Same rules apply for conclusion of FTCs with affiliated companies (intra-group).

Probationary work. A new set of rules regarding probationary work has been introduced:

- New provisions on probationary periods now (finally) resolve the situation that often occurs in practice – i.e. when the employee is absent from work during the probationary period due to objective reasons such as sick leave, use of maternity and parental rights or garden leave; from now, it will be possible to extend the duration of the probationary period in such case for the maximum period of absence (but not longer than actual six months spent at work).
- If fixed term employment is concluded, the probationary period must be proportional to the duration of the FTC.
- The employee may request conclusion of an indefinite term employment agreement, if (i) they have worked with the employer for at least six months and (ii) the probation period has passed. The employer should consider the employee's request and, if denied, provide a substantiated written response within 30 days (or 60 days if the employer employs less than 20 employees). The employee may repeat their request after six months.

Additional work. New regulation of additional work has been implemented:

- An employee who works (i) full-time for one employer or (ii) part-time for several employers, with a total of 40 working hours per week, may now additionally work eight hours per week for another employer (or 16 hours if the working hours are unevenly distributed); certain exceptions apply.
- No consent of the main employer(s) is required, only a prior notification.
- The main employer may request the termination of additional work for another employer only if there are objective reasons for such request, e.g. if such work represents a violation of the employee's non-compete obligation or if additional work is performed within the employee's working hours for the main employer.
- The additional employer should enable the employee to use the proportional part of the vacation at the same time when vacation is used with the main employer.

Furthermore, new rules on employment of seasonal workers have been introduced as well.

Completely new legal framework relating to work-life balance is now in force

Remote work. Previous regulation of remote work was scarce and did not keep pace with the existing fast-changing trends in the labour market. More flexibility should be offered under the newly introduced extensive remote work regulations. In summary:

- In addition to work performed outside the employer's premises, where the exact place of work is agreed between the parties (e.g. work from the employee's home), the possibility of remote work has also been introduced, under which the employees can freely determine their place of work.

- Employees working outside the employer's premises are entitled to reimbursement of working costs if such work exceeds seven working days per calendar month.
- The employer is entitled to enter the employee's home or other premises for the purpose of maintenance of equipment and supervision of the employee's working conditions, provided that this has been contractually agreed.

The employee may request to temporarily work outside the employer's premises in statutorily pre-defined cases (e.g. pregnancy, personal care of a family member, etc.) and the employer needs to consider such request and provide the employee with a substantiated response within 15 days.

Right to disconnect. For the first time, a very "soft" version of the right to disconnect has been implemented into Croatian legislation. Namely, the employer should not contact the employee outside working hours, unless (i) there is an urgent matter, (ii) this is required due to the nature of the work, or (iii) if such possibility has been envisaged under the collective agreement or individual employment agreement. However, there is no monetary fine for non-compliance with such obligation.

Request to work part-time. The employee who has worked with the same employer for at least six months may request to work part-time or that the employer adjusts the working time schedule, if they (i) have a child of up to eight years of age or (ii) provide personal care to a close family member (as defined by law). The employer should consider the employee's request and, if denied, provide the employee with a substantiated written response within 15 days. However, there is no monetary fine for non-compliance with such obligation.

Leave for personal reasons. The employee is entitled to paid leave due to an important and urgent family matter, for one working day per year. The employee is entitled to use unpaid leave to provide personal care to a close family member, for five working days per year.

Salary add-ons. Employees working on Sundays are entitled to a salary increase of 50% for the work performed on such days.

Work through digital working platforms. Provisions on work through digital working platforms will enter into force on 1 January 2024. Work performed through digital working platforms will be extensively regulated, including, inter alia: (i) mandatory content of the employment agreement, (ii) use of automated management systems, (iii) processing of employees' personal data, and (iv) protection of independent contractors performing work. Digital working platforms and aggregators will need to register with the relevant register maintained by the competent ministry.

Digital working platforms will be liable as joint and several debtors for the payment of salaries to the employees of the aggregators working through the digital working platform, but can be released from such liability if they undertake certain statutorily defined actions (e.g. request monthly delivery of pay slips, confirmation on no outstanding tax debts, etc.).

Certain ESG-relevant novelties

Some of the new provisions of the Labour Act are relevant in the wider ESG (or more precisely "S") context.

Dignity protection. The procedure of appointment of the officer for protection of the employee's dignity has been amended, to the effect that now employers with more than 75 employees have to appoint at least two dignity protection officers of different sex, who will receive and investigate dignity protection claims. Dignity protection officers do not have to be employed with the employer.

Equal pay. In order to exercise the right to equal pay for female and male employees, the employer should provide the employee with information on the criteria for the calculation of the salary of the employee who performs the same or similar work tasks, if such an employee exists. However, there is no monetary fine for non-compliance with such obligation.

New rules to end employment

Notice period. The notice period does not run if the employee is on sick leave. However, if the termination notice was handed over to the employee before the commencement of sick leave and the employee was placed on garden leave, the notice period will run during the sick leave period.

Delivery. Employer's decisions (other than the termination notice) may be delivered to employees electronically, provided that the employer retains proof of delivery and such documents are (i) available to employees, (ii) printable, and (iii) storable.

2 Introduction of the Act on Elimination of Unregistered Work

Focus on elimination of unregistered work. The following main regulations have been introduced:

- Unregistered work generally comprises the following situations: (i) non-registration of the employee with mandatory social insurances, (ii) performance of work without a written employment agreement, (iii) hidden employment relationship, (iv) non-compliance with regulations on the employment of foreigners, (v) non-payment of salary add-ons and (vi) non-payment of public contributions.
- The competent ministry will maintain publicly-available registers of compliant and non-compliant employers.
- Companies active in certain sectors will have to register working hours of their employees through an electronic work record system which will be maintained by the competent ministry – implementation details are still pending.
- If a company engages a subcontractor for performance of certain services, then the company will be jointly and severally liable for the payment of salaries to the subcontractors' employees. The company may be released from such liability if it undertakes certain statutorily defined actions (e.g. requesting monthly delivery of pay slips, employee data, etc.).
- In summary – the new statutory provisions mean that companies should (i) immediately closely examine their existing practices and contractual relationships with their subcontractors and (ii) monitor the implementation of bylaws regarding the work record system to ensure compliance.

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Our employment experts will gladly help you in case of any additional questions or the need for assistance.

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