

Employees' right to disconnect in Slovenia

30 September 2024

The right to disconnect entitles employees not to be at the employer's disposal during rest periods and other justified absences.

According to Article 142a of the Slovenian Employment Relationships Act, **employers must adopt measures to ensure employees' right to disconnect by 16 November 2024 at the latest.**

Specific measures are not regulated by statutory law but shall be determined in collective agreements or internal policies, according to the following hierarchy:

- (i) industry-level collective agreement,
- (ii) company-level collective agreement concluded with a trade union (company collective agreement), if the measures are not stipulated in an industry-level collective agreement,
- (iii) an employer's general act (policy) which requires a prior opinion of the works council / employee trustee; in the absence of a works council / employee trustee, the employer must inform the employees of the implementation of the measures.

1 Practical examples of possible measures

- Employees may be clearly informed that they are not obliged to take calls or respond to e-mails received outside working hours;
- E-mails received after working hours on working days, weekends and holidays may be automatically delivered to the employee's mailbox at the start of the next working day;
- The employer may implement technical restrictions with regard to access to an employee's mailbox outside of working hours;
- In the event of a longer absence by an employee (such as, an annual leave), an automatic out-of-office reply may be activated, which may contain the information to contact another employee in case of emergency;

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- Meetings may not be scheduled outside reasonable business hours (e.g., starting half an hour after the start and ending half an hour before the end of regular business hours); regular meetings may need to be scheduled at least 48 hours in advance and concluded at the scheduled time, etc.

2 Exceptions

All exceptions from the right to disconnect must be justified and relate to situations in which the work process may be seriously compromised and require an immediate response. It is advisable to anticipate these circumstances in a relevant policy (e.g., on-call time, cases of force majeure or urgent circumstances, etc.), as the employer will have to prove the urgency of these circumstances.

3 Burden of proof

The employer will bear the burden of proof that it has adopted appropriate measures. These measures must be properly implemented, both legally (e.g., through adopted policies) and from the technical and organisational perspective, e.g., by division and project managers. The employer is also obligated to ensure such measures are followed and implemented on a permanent basis, thus contributing to company culture. Who enjoys the right to disconnect?

All employees, including managing directors, procurators and executive employees enjoy the right to disconnect. With regard to managerial and executive employees, their right to disconnect is limited by the nature of their work and the possibility of agreeing to different working hours, breaks and rest periods in their employment contracts.

4 Sanctions

- EUR 1,500 – 4,000 for an employer,
- EUR 150 – 1,000 for the responsible person of the employer.

In case of an employer's breach, an employee has the right to request in writing that the violation be cured, only after which they will also have access to judicial proceedings. Should the affected employee suffer any damage, the employer is liable under the general rules of civil law.

We expect that violations of the right to disconnect will become particularly relevant in cases of burnout. The labour inspector may focus more on these issues and that the Health Insurance Institute of Slovenia may increasingly claim reimbursement for the costs of employees' sickness absences from breaching employers.

5 How to regulate the right to disconnect?

- 1) Identify the appropriate manner for adoption of the general internal act. Is it necessary to wait for negotiations between social partners (trade unions and employers' organisations), or should one engage in negotiations with the employer's trade union, or consult with a works council?
- 2) Prepare **a proposal of an annex to the company-level collective agreement** or **an internal policy** providing for appropriate measures to ensure the right to disconnect.
- 3) **Consult with the trade union** for the purpose of adopting the annex to the company-level collective agreement or **inform the works council or employees** on the proposed measures. The works council may give its opinions, which must be considered by the employer.
- 4) **Adopt the annex or the policy**, which should be published in the usual form (on a billboard, intranet, etc).
- 5) **Inform all employees** in the customary manner. Ensure that the policy is available and accessible to employees at all times.

Once the guidelines or measures meant to ensure the right to disconnect are contained in an industry-level collective agreement, each employer must inform the employees in writing of the specific measures, which in practice will likely need to be reflected in a separate policy.

6 How can Wolf Theiss assist you?

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- Revision of existing and/or drafting of new internal employer policies;
- Revision of existing and/or drafting of new employment contracts;
- Legal advice by an experienced team of employment lawyers in the event of specific questions or legal representation of employers before inspection authorities or courts.

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