

LABOUR LAW NEWS: NEW RULES ON EMPLOYING FOREIGNERS CANCELLATION OF DUTY OF CONFIDENTIALITY FOR EMPLOYEES

On 7 December 2018, the National Council of the Slovak Republic adopted an act amending Act No. 5/2004 Coll., on Employment Services (hereinafter “**amendment to the Employment Services Act**”), as well as Act No. 311/2001 Coll., Labour Code (hereinafter “**amendment to the Labour Code**”).

1. Amendment to the Employment Services Act

The main purpose of this amendment is finding a solution to the current labour shortage, mainly in specific professions where a deficiency is identified. In accordance with the so-called Strategy on the Employment Mobility of Foreigners in the Slovak Republic, the amendment to the Employment Services Act extends the access of non-EU citizens to the Slovak labour market and simplifies the process of permitting them to enter and stay in the Slovak Republic.

In contrast to the current status, when an employer or a temporary employment agency cannot assign a non-EU citizen for a temporary job, employing such third-country citizens will be possible via temporary assignment through temporary employment agencies operating in Slovakia for at least three years. However, such exemption shall apply only for assignment for a temporary job included in the list of professions indicating a labour shortage in the districts in which the average registered unemployment rate is lower than 5%.

The new legislation should also help to reduce the various forms of non-EU citizens posting through shell companies, increase the protection of non-EU employees, facilitate control processes as well as reduce social dumping.

The amendment to the Employment Services Act came into force on 1 January 2019.

2. Amendment to the Labour Code

With effect of the same day the Labour Code introduces a ban for employers on limiting employees from sharing information about their wages. Such measure is designed to prevent the abuse of non-EU citizens' entry to the Slovak labour market for social dumping, particularly in the wage area, as well as to promote equal pay for equal work.

Many employers currently require their employees to keep their wages and working conditions confidential through their internal directives or directly through employment contracts, often under high penalties. According to the amendment to the Labour Code, the employer will no longer be able to impose the duty of confidentiality on employees regarding their wages and employment conditions. If an employee does not keep confidentiality about his or her working

conditions, he or she must not be persecuted or otherwise punished at the workplace. In addition, it is expressly stated that any provision of the employment contract or other agreement between the employee and the employer by which an employee undertakes to keep confidentiality regarding his or her working conditions (including wage conditions and conditions of employment) shall be considered invalid.

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