

Employment Law Newsletter

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■ Summary of changes in 2019

In 2019, a number of substantial changes to labour law regulations will enter into force, in particular:

- an additional and voluntary (for employees) pension-saving vehicle, i.e. employee capital plans (PPK) will be introduced. From 1 July 2019, the obligation to create PPK will apply to entities employing at least 250 people and will cover smaller entities gradually (at six-monthly intervals);
- employers will be allowed to keep and store employee documentation in an electronic form. The retention period of employee documentation will be shortened to 10 years (counted from the end of the calendar year in which the employment relationship ended); the shorter period will apply to all employees hired from 1 January 2019; and
- non-employees, including civil law contractors, will have the right to establish and to join trade unions; and
- trade unions will present to the employer only twice a year an information on the number their of members.

■ Simplifications for employers

On 1 January 2019 enters into force the Act of 9 November 2018 amending certain acts to introduce simplifications for entrepreneurs in tax and economic law. The act, inter alia, liquidates the obligation for administrative and office employees to undergo periodic occupational health and safety training if a risk category not higher than 3 is assigned to an employer's activity (within the meaning of the provisions on social insurance connected with accidents at work and occupational diseases).

The Act also introduces changes which will facilitate the Social Security Agency's inspection of sick leaves. ZUS will have, among others, the possibility to notify the insured about medical check-ups via telephone or e-mail.

■ Important judgments of the Constitutional Tribunal

On 25 July 2018, the President signed the Act of On 14 November 2018, the Constitutional Tribunal ruled that a proposed act which was supposed to remove the limit on retirement and pension insurance contributions violates the Constitution. In the opinion of the Tribunal, the legislative process was violated when the act was being voted upon in the Senate; however, the Constitutional Tribunal ruling did not address the content of the act in question.

In its judgment of 11 December 2018, the Constitutional Tribunal stated that depriving an employee covered by pre-retirement protection (whose employment contract was terminated upon notice in violation of the provisions) of the right to demand reinstatement to work, only because he/she was employed under a definite-term employment contract, violates the constitutional principle of equal treatment.

■ Supreme Court judgment – the amount of remuneration for the time of release from the obligation to perform work

In its judgment of 6 March 2018 (II PK 86/17), the Supreme Court ruled that the amount of remuneration due to an employee who was released from the obligation to perform work under a mutual agreement on termination will be determined based on the will of the parties disclosed in the termination agreement. If, however, the termination agreement does not regulate this matter directly, then the employer may calculate the remuneration as for the period of downtime. Therefore, it is recommended to regulate this matter in detail in the termination agreement.

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