

Advokatska kancelarija TSG TOMIĆ SINDJELIĆ GROZA informiše o aktuelnostima u radu kancelarije i zakonodavnom reljefu RS / Die Rechtsanwälte TSG TOMIĆ SINDJELIĆ GROZA informieren über aktuelle Themen der Kanzlei und den Rechtsrahmen der RS / The TSG TOMIĆ SINDJELIĆ GROZA Law Office is informing about the actual activities of the Law office and the Law frame in RS/ Юридическая контора ТСГ ТОМИЧ СИНДЖЕЛИЧ ГРОЗА информирует о самых актуальных событиях, о работе конторы и законодательном релёфе РС / Glavni urednik/Chefredakteur /Editor-in-Chief / Главный редактор: Ljubica Tomić /Lektor/Lektor/Proofreader/Лектор: Ivana Radović, Vesna Gašić, Vojislava Katić, Viktorija Topalović, Magda Braun / Br. 64/14

Carice Milice 3, Beograd, Srbija, TEL/FAX +381 (0)11 3285.227, +381 (0)11 3285.208, +381 (0)11 3285.153, office@tsg.rs, www.tsg.rs

CONTENTS:

1. **SEMINAR – LABOUR LAW
03 SEPTEMBER 2014**
2. **AMENDMENTS TO THE LABOUR LAW**

1. SEMINAR – LABOUR LAW 03 SEPTEMBER 2014

Tomić Sindjelić Groza Law Office is organising a seminar relating to

NEW SOLUTIONS IN THE LABOUR LAW

We are happy to invite you to a seminar to take place at Holiday Inn Hotel on 3 September 2014, at 9am.

Simultaneous interpretation into German and English available.

More information and registration at office@tsg.rs.

We are looking forward to seeing you!

2. AMENDMENTS TO THE LABOUR LAW

The National Assembly of the Republic of Serbia has adopted the long announced amendments to the Labour Law, published in the "Off. Gazette of the RS", no. 75/2014. The amendments will enter into force on 29 July 2014, with the exception of Article 54 of the amendments, relating to the calculation of salaries and compensations, which will become effective 30 days from entry into force of the Law. Its contents are to be provided by the Minister within the above period.

Under these amendments, employers may conclude annexes to employment contracts with their employees within 60 days from entry into force of the Law i.e. until 27 September 2014; otherwise the provisions of employment contracts that are not in conflict with the Law remain in force. The amendments also provide that employers must bring their Rulebooks on internal organisation and systematization in line with the Law within the above deadline.

One can conclude that the present amendments to the Law have multiple purpose, namely, to regulate by law certain dilemmas and legal gaps that existed in the



practice, provide terminological clarification of particular labour law terms, bring legal solutions in line with other applicable legal regulations, directives of the European Union and the conventions of the International Labour Organisation, facilitate the recruitment process, provide detailed definition of reasons for termination of employment, simplify the procedure for termination of employment, and finally state more precisely the authorities of the labour inspection.

In terms of reduction of the employee's rights and diminishing of employer's obligations, the most significant changes refer to decreasing the basis of the accounting period for calculating severance payments in case of redundancy, which is to be calculated only with the last employer, as well as reduction of the right to salary increase due to seniority, also to be calculated only with respect to years of service with the last employer, cancellation of entitlement to salary increase based on shift-work, reduction of the retirement severance amount at the time of employees' retirement from three average salaries in the Republic of Serbia to two average salaries in the Republic of Serbia, as well as modifications of travel expenses accounting method for a business trip abroad, that is no longer governed by special regulations, *i.e.* Regulation on Reimbursement and Severance Payments for Civil Servants and Appointees, but regulated by employer's by-laws or the employment contract.

In addition, a significant change has been made to the calculation basis, *i.e.* to the reference period for calculating salary compensations in compliance with the law, where an average salary in the past 12 months will now serve as the point of reference instead of the average salary in the last three months.

Furthermore, changes and clarification of the calculation method for compensation for unused vacation are very important. The calculation of compensation is now based on the average salary in the preceding 12 months, proportionate to the number of days of unused annual leave, whereas, the previous calculation basis was an average salary in the past three months. Also important is the fact that the obligation to pay compensation for unused vacation is no longer associated with the fault of the employer.

The amendments were also made to the provisions stipulating mandatory content of the Rulebook on systematization of jobs, which now provide that the Rulebook may define the number of executives, but impose a restriction that not more than two consecutive levels of professional qualifications, *i.e.* education may be designated for work in specific job positions. Further amendments refer to the employers who are required to issue a Rulebook on systematization of jobs, so in future employers who have 11 or more employees must adopt this rulebook.

The measures to stimulate employment include prolonging the period of a fixed-term employment contract, by extending the statutory limit of 12 months to 24 months. Furthermore, newly established employers, *i.e.* companies founded within one year before entry into

force of the Law, may conclude an employment contract for a term of 36 months.

The amendments also provide for new cases when a fixed-term contract of employment may exceed the period of 24 months, including, in addition to replacement of a temporarily absent worker, also the cases of work on a project whose time is predetermined, work with a foreign citizen on the basis of a work permit, however not longer than the date of expiry of the work permit, and the work with an unemployed person, who requires up to 5 years to fulfil the retirement requirements.

The most extensive amendments to the Labour Law were made to the procedure of termination of employment, as follows:

- By limiting the contractually agreed notice period to 30 days in case of termination of employment on part of the employer;
- By introducing new grounds for dismissal, *i.e.* defining under the law certain cases of violation of work obligations;
- By introducing new grounds for dismissal, *i.e.* defining under the law certain cases of violation of work discipline;
- By introducing the possibility of imposing disciplinary sanctions in case of violation of work obligation and work discipline, by granting the employer the authorisation to impose a disciplinary measure, as follows:
 - a) temporarily remove the employee from work without compensation for a period of 1 to 15 working days,
 - b) impose a fine of up to 20% of the base salary in the month in which the fine was imposed, for a period of up to 3 months, or
 - c) issue a cautionary notice, warning of possible dismissal, stating that the employer will terminate the employment contract if the employee should commit the same violation of work obligation or contempt of work discipline within the following six months;
- By increasing the deadline for the employee to provide comments to a warning letter prior to dismissal from 5 working days to 8 working days;
- By cancelling the obligation to submit a warning letter prior to dismissal to the trade union;
- By reducing prohibition of employment in the same or similar jobs in case of redundancy from six months to three months, except in cases where a disabled employee has been declared redundant;
- By extending objective and subjective limitation periods for termination of employment contract to six months from the date of learning of the

facts which constitute the basis for termination of employment contract, *i.e.* one year from the occurrence of the facts giving grounds for dismissal;

- By reducing notice period in case of termination of employment contract due to non-performance for a duration not shorter than 8 days and not longer than 30 days;
- By allowing under the law for termination of employment contract in cases where legal grounds existed, but the employer made certain omissions in the course of dismissal procedure (breach of procedural, however not material, provisions of the Labour Law), in which cases the court will reject employee's request for reinstating to work and impose a compensation of up to 6 salaries in favour of the employee;
- By reducing the deadline for initiating legal action for the annulment of the decision on termination of employment contract from 90 days to 60 days from the day of service of the decision, *i.e.* learning of the violation of rights;
- By introducing the possibility of dismissal of trade union representatives; in future the protection against dismissal for trade union representatives will apply only in cases when the contract of employment is being terminated because of the employee's status or activities as representative and membership in the trade union, and the burden of proof that a trade union representative has not been dismissed for these reasons is placed on the employer.

In addition to the above mentioned amendments, certain changes were made in order to mitigate the rigidity and formality of legal solutions, by providing for the possibility of transferring the authority to decide on the rights and obligations of employees to third parties who are not employed; the possibility of issuing decisions on annual leave in an electronic form; the possibility of conducting the procedure of concluding employment contract annexes without submitting written notification (mandatory under the previous law and defined as an offer to annex conclusion) in the event of a change of employee's personal data and other data having no effect on working conditions, and in the event of changes to the employment contract at the initiative of the employee.

The amendments to the Law precisely define the labour inspection authorities. With respect to the inspection supervision procedure, amendments provide for the obligation to issue a decision rejecting employee's application for postponement of the dismissal decision; a reduction of the deadline for applying for postponement of the decision from 30 days to 15 days; an increase of the deadline for the Ministry to decide on the appeals against inspection's decision from 15 days to 30 days; a change in the amount of fines referring to certain violations ranging from 800.000 to 2.000.000 dinars for legal entities and 50.000 to 150.000 dinars for the responsible person within the legal entity; and for a

Advokatska kancelarija TSG TOMIĆ SINDJELIĆ GROZA informiše o aktuelnostima u radu kancelarije i zakonodavnom reljefu RS / Die Rechtsanwälte TSG TOMIĆ SINDJELIĆ GROZA informieren über aktuelle Themen der Kanzlei und den Rechtsrahmen der RS / The TSG TOMIĆ SINDJELIĆ GROZA Law Office is informing about the actual activities of the Law office and the Law frame in RS/ Юридическая контора ТСГ ТОМИЧ СИНДЖЕЛИЧ ГРОЗА информирует о самых актуальных событиях, о работе конторы и законодательном релёфе РС / Glavni urednik/Chefredakteur /Editor-in-Chief / Главный редактор: Ljubica Tomić /Lektor/Lektor/Proofreader/Лектор: Ivana Radović, Vesna Gašić, Vojislava Katić, Viktorija Topalović, Magda Braun / **Br. 64/14**

Carice Milice 3, Beograd, Srbija, TEL/FAX +381 (0)11 3285.227, +381 (0)11 3285.208, +381 (0)11 3285.153, office@tsg.rs, www.tsg.rs

deletion of provisions authorising inspection to impose the protective measure of banning a business activity.

Consequently, employers need, within the mandatory period of 60 days, to make changes to their labour law documentation and to conclude annexes to the employment contracts with employees, reflecting the reductions of the rights of the employees under the amendments to the Labour Law. The employers also need to bring their Rulebooks on organization and systematization of jobs as well as their Work Rules in line with the amendments to the Law.

Saša Sindjelić, Attorney-at-Law
sasa.sindjelic@tsg.rs