

Collective termination of employment at the time of COVID-19

With regard to the coronavirus spreading, employers are taking a number of measures to prevent it from spreading and to eliminate the associated risks. In addition, employers are also forced to address optimization of operating costs. Despite the adoption of various measures, the failure of orders in practice can lead to redundancies. However, the coronavirus epidemic itself does not provide a legal basis for terminating employment. It should therefore be stressed that, despite the extraordinary situation in which the Slovak Republic finds itself, termination of employment remains strictly regulated by the Labour Code. Therefore, the employer has at his disposal only the same options he had before the outbreak of the pandemic.

In case of termination of employment with a larger number of employees, it is also necessary to consider whether the criteria of collective redundancies were fulfilled, where the employer has other specific obligations that will prolong the termination of employment. Collective redundancies are those where the employer terminates his employment by dismissal for organizational reasons or in any other way, for a reason not based on the employee, for 30 days:

- a) of at least ten employees of an employer who employs more than 20 and less than 100 employees,
- b) of at least 10% of total up expenses of employees of an employer who employs at least 100 and less than 300 employees,
- c) of at least 30 employees of an employer who employs at least 300 employees.

This also means that even if the employment relationship is terminated by the agreement, such termination is included for the purposes of assessing the collective termination of employment.

As regards the collective termination procedure itself, the employer shall at the latest one month before the beginning of collective redundancies, discuss with the employees' representatives measures to prevent or reduce collective redundancies. If there are no employees' representatives operating, the employer shall negotiate these measures directly with the respective employees.

The employer is also obliged to inform the Office of Labour, Social Affairs and Family about the collective redundancies in order to find solutions to the related problems. In this context, the employer shall provide the Office with a written copy of the reasons for the collective redundancies, the number and structure of the employees to be dismissed, the total number and structure of the employees he employs, the period during which the collective redundancies will take place, together with the criteria for his choice and names, surnames and permanent addresses of the employees who shall be terminated.

Consequently, the employer may give notice to the employee for organizational reasons or a proposal to terminate the employment by agreement for the same reasons at the earliest one month after the date of receipt of the written information to the Office of Labour, Social Affairs and Family. This process is so lengthy, because the employer can actually start to dismiss employees only after they have been interviewed by the employees' representatives and 30 days after receiving information on the negotiations by the employees' representative and the Office of Labour, Social Affairs and Family.

In addition, in the case of collective redundancies, the provisions on notice and severance pay to which employees are entitled according to the length of time worked with the employer shall also apply. The notice period starts on the first day of the calendar month following the notice of termination and ends on the last day of the respective calendar month. On termination of employment due to organizational reasons, the employee is entitled to a notice period of 1 month if the employment lasted less than a year. If the employment relationship lasted from 1 to 5 years, the employee is entitled to 2-month notice, for an employment relationship of more than 5 years, it is up to 3 months' notice. Depending on the duration of the employment relationship, the amount of severance pay may be from one to four times the average monthly earning, but if the employment is less than two years, the employee is not entitled to any severance pay.

In this context, we also point out that the government has proposed measures to help employers who have had to close operations as a result of anti-coronavirus measures or those whose sales have been significantly reduced by the crisis, to maintain jobs by contributing to employees' wages. According to the government's proposal, such wage allowances will be conditional on employers not dismissing their employees. In light of the stated above, it is up to the employer to decide whether it is important for him to terminate the employment relationship or to resolve the situation by applying government measures.

If you have any questions, please do not hesitate to contact us.