

## / Crucial changes to cross-border service provision and increased bureaucracy in Slovakia

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Since 18 June 2016, the new "Act on cross-border cooperation in the posting of employees in connection with the provision of services" has introduced new bureaucratic obligations for foreign employers posting their staff to Slovakia. Foreign employers from the EEA posting their employees to Slovakia to provide services will, at the latest on the date on which the employees are posted, be obliged to provide the Slovak National Labour Inspectorate with detailed information including the number and identity of employees posted, the start and end dates of the posting, the place of work and the nature of the services provided by the posted employees.

At the same time, the Slovakian National Labour Inspectorate will also have to be informed of the name and address of the "contact person" authorised to accept service of documents. This contact person must be located in the Slovak Republic during the entire period of the posting. Appointing the contact person will increase bureaucracy for foreign employers in connection with the cross-border provision of their services.

During the posting itself, the foreign employer will have to provide the employment contracts of all posted employees and documentation of the hours worked and the wages paid at the place of work (in Slovakia) during the posting. At the request of the National Labour Inspectorate, these documents will also have to be translated into Slovakian, even after the posting has finished. Breaching any of these obligations can lead to a fine of up to EUR 100,000.00.

Since the legal definition of "employee posting" basically involves any kind of posting, even within one corporate group, i.e. for instance a short-term posting of a top manager of a parent company with registered offices in an EEA Member State to a subsidiary in Slovakia. These obligations also apply to visits by parent company bosses as well. Therefore, it is advisable for parent company bosses to take their employment contracts and salary slips with them if they are posted to Slovakia. You never know, when a Slovakian subsidiary will be visited by the National Labour Inspectorate, or even parent company bosses checked by its inspectors.

### **Objective responsibility for illegal work of a retail supplier**

On 18 June 2016, the amendment of the Slovakian "Act on illegal work and illegal employment" came into force as well. The new legislation brings significant changes with respect to B2B relationships involving the provision of work or services.

Under the new legislation, each entrepreneur in a B2B relationship is prohibited from accepting services or work performed by a person working illicitly for the supplier. Since June 2016, it has therefore been possible to fine the service recipient as well; e.g. if a retail network accepts a service or work from its supplier which is provided by the supplier via a person employed illegally by the supplier. Employees are in particular considered to be illegal if they work without an employment contract or other labour law agreements having been concluded or work as freelance contributors on the basis of commercial agreements, in order to avoid triggering employer social security contributions.

Should the authorised controlling body establish that a service recipient has breached this prohibition, it is entitled to impose a fine on it of between EUR 2,000 and 200,000; and if services provided by two or more illegally employed persons are accepted at the same time, the fine is between EUR 5,000 and 200,000.

At the same time, the new legislation entitles the service recipient (e.g. a retail network) to require that its suppliers provide it with employment documents and the personal data of the employees carrying out the work or service, and thus to check whether or not the supplier is employing such employees illicitly.

Unfortunately, the provisions of the new legislation are too vague and too poorly defined to allow any conclusions as to the exact nature and extent of documents and data which suppliers have to provide to their retail customers.

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