



PS NEWSLETTER

25 August 2016

Effective as of 18 June 2016 the regulations of the Hungarian Labour Code governing the liability and administration rules on the posting of foreign workers in Hungary were modified with a view to harmonisation with EU legislation.

The Hungarian Labour Code had already adopted the approach of the relevant EU regulations stating that the Hungarian minimum standards for terms and conditions of employment (such as wage, holidays, etc.) shall also be applied on employees posted in Hungary in the framework of provision of services, i.e. these foreign employees shall not be discriminated against those regularly employed in Hungary.

According to previously existing regulations Hungarian employers had to act as guarantors towards an employee posted in Hungary if they failed to inform him (or her) in advance about Hungarian working terms and conditions.

In accordance with the new rules **the Hungarian employer will bear joint and several liability with the foreign employer**

if the latter fails to fulfil its obligation to pay taxes and contributions related to the employment. Depending on the circumstances of the employment this liability covers obligations arising from both Hungarian and foreign regulations.

In order to enforce controllability, **both the Hungarian and the foreign employers will be subject to various document retention, record keeping and other administrative requirements.** The Hungarian employer will be required to retain the employment records (such as labour contract, working-time accounts, pay slips) of the posted employee at its registered seat during the entire period of the posting and in the following 3 years. In the same time, the foreign employer will be obliged to designate a person to provide the Hungarian employer with the above documents in the event of a labour audit, and to support communication with the Hungarian labour inspector.

In accordance with the new regulations, **the rules of labour inspection were also amended as of 8 July 2016.** Pursuant to these amendments, labour inspectors will have the right to determine — based on certain pre-defined criteria

CHANGES IN THE LIABILITY RULES CONCERNING THE POSTING OF WORKERS IN THE FRAMEWORK OF THE PROVISION OF SERVICES



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(e.g. characteristics of the enterprise, the temporary nature of employment) — whether an individual posted within the framework of cross border services is to be considered a posted worker or not. Branding the receiving Hungarian entity as legal employer can lead to several adverse legal consequences (such as unregistered employment, arrears in tax and social contribution liabilities).

In accordance with the new regulations, [the foreign employer is also obliged to report the posting of workers to the Hungarian Labour Authority](#) on the website of the Hungarian Labour Authority, by the starting date of the posting at the latest. The declaration can be made either in English or in Hungarian.

Posted workers already employed in Hungary at the effective date of the new regulations have to be reported until 31 August 2016. As for postings commencing after 8 July, the registration is due by the first day of the posting.

Failure to respect the above deadlines can result in administrative fine.

Please note that these changes effect the registration obligation toward the Hungarian Labour Authority only. The expatriate registration rules toward the Tax Office remain unchanged.

The purpose of our newsletter is to provide general information and to draw the attention to the current changes in law which we believe to be important for the business operation of our clients. It is not a replacement for careful review of the acts and rules and the consultation with your tax advisor.

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