

Labour Law Regulations Regarding Qualified Executives Have Been Considerably Modified

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According to the expert of Kovács Réti Szegheő Attorneys at Law provisions regarding qualified executives have gone through considerable changes as well by new labour law regulations coming into force. These changes modify regulations in connection with employees working as qualified executives radically, on the one hand they unify special provisions applicable to executives, but on the other hand more conditions need to be met by employers in order to qualify an employee as an executive.

Therefore, both as an employee and as an employer it is worthwhile to learn whether the employee filling the given position is truly employed as a qualified executive by the employer or not – warned the expert of Kovács Réti Szegheő Attorneys at Law.

According to dr. Zita Orbán it is a striking change regarding qualified employees that – while earlier it belonged to the scope of competence of the owner to decide on which positions should be qualified as executive positions, in accordance with the current provisions – entirely understandably and reasonably- now the parties, i.e. the employer and the employee agree on such issues between each other.

However, it is important to emphasize that the above agreement has its limits as well, namely that the position needs to be of special importance or of special confidence from the aspect of the employer's operation – said the expert.

Effectively, the position shall be qualified

The parties qualify the position itself effectively – and not the employee filling it – as executive. Additionally, the agreement regarding the above needs to be set forth in an employment contract (or in its amendment), in order to ensure that it shall qualify as validly prescribed in accordance with the new labour law regulations. Furthermore, it is an additional important condition – which was not regulated at all by previous labour law provisions – that the base salary of the employee filling such a position qualified as executive should reach at least seven times the actual minimal wage.

According to the expert of Kovács Réti Szegheő Attorneys at Law, several issues deserve attention in connection with the above. On the one hand, due to the fact that this labour law provision is extremely strict and it demands unachievable conditions to be met by certain employers – especially in the current economic situation – it serves the purpose of compensating the extra responsibility and the much more limited labour law protection which goes with the position of a qualified executive basically with the salary.

On the other hand, it is important that only the basic wage can and needs to be taken into consideration during the calculation, extra payments (such as bonus) are to be disregarded – said dr. Zita Orbán.



It is reasonable to review the contracts

Thus, it is absolutely advisable to review the employment contracts of employees qualified as qualified executives in accordance with the previous labour law regulations in order to determine whether these positions qualify as executive positions in accordance with the current labour law regulations as well.

In respect of surplus responsibility it needs to be emphasized that in case a qualified executive causes damages or losses due to negligence, he or she shall still be fully liable for the whole amount of the damages or losses suffered as opposed to other employees who are only fully liable in case of gross negligence or wilfulness – pointed the expert of Kovács Réti Szegheő Attorneys at Law out.

It is a quite significant change that employers can terminate the employment relationship of the qualified executives practically under the same conditions applicable to the executives, i.e. no reason must be given for the termination. The scope of protection available during notice of termination is also much narrower, since women on maternity leave are not protected from termination if they are employed as qualified executives.