

## **Legal measures employers can take in case of employees' breach of duties**

**What are the do's and don't's for stepping up against breaches of duties by employees, and when is the right time to act? The expert of Kovács Réti Szegheő Attorneys at Law gives a brief outline of the situation.**

Employers may often find themselves in situations where the question arises what legal means they can avail of to step up against employees' infringement of contractual obligations – introduced the context dr. Zita Orbán.

Eventual disciplinary actions imposed on infringement of contractual obligations by employees should be regulated by the collective agreement in the first place, however if the employer has not adopted one, then the parties may negotiate the terms of the applicable punitive actions within the contract of employment.

### **What are the primary principles and requirements behind the applicable disciplinary actions?**

Disciplinary actions may only be applied if the employee is guilty of breaking the terms of contract, in other words no disciplinary action will be applicable for breaches of contractual duties whenever the employee may be exempted from those.

For example, if an employee has a good reason to exempt its late arrival to work, his or her employer may not apply any disciplinary action at all, since by way of the said reason, the tardiness will be considered as rightful absence – pointed out the lawyer of Kovács Réti Szegheő Attorneys at Law.

A further principle is that of proportionality, meaning that the penalties imposed must be in proportion with the gravity of the breach. For instance: it would be disproportionate to impose a penalty equal to a month's wage or salary, for a minor offence such as a first-time failure to report to work on time.

Only such detrimental legal consequences may be applied, which are related to the employment relationship and alter the terms contained therein only for a definite period of time, further the disciplinary actions may not violate the personality rights or dignity of the employee.

For instance: it would be an obvious disrespect of human dignity to oblige an employee formerly fulfilling an executive position to perform a job of a much lower status.

Dr. Zita Orbán pointed out: it is a further statutory prerequisite that in the aggregate financial sanctions may not exceed the employee's monthly base wage.

### **Mandatory requirements: notices must be made in written form, with the reasons and legal remedies provided**

The employer must put the notice imposing the disciplinary action in writing and must provide adequate reasoning to that, besides information regarding the possibilities of legal remedy available to the employee.



The applicable deadline in case of termination without notice governs the terms of disciplinary actions as well, that is the law prescribes a fifteen day subjective period (and a one-year objective period) for the application of the detrimental legal consequence.

### **The modality of issuing payment notices**

In the event that the employer holds claims arising from the employment relationship against the employee (typically damage claims of some kind), one of the ways in which such claims may be enforced is by sending a payment notice to the employee, based on which the employer may deduct the claimed amount from the wages payable to him or her.

The procedure involving the issuance of a payment notice is subject to the condition that the notice must be issued in written form and must also contain information on the possibilities and modalities of seeking judicial relief. Such claims may only be enforced by the employer in case the quantum of the claim does not exceed the threefold amount of the minimum wage as amended.

As a general rule the payment notice must be sent to the employee within the limitation period – that is within three years - but certain exceptions stipulated by law may prescribe a much shorter timeframe for the employer to proceed (e.g. in case of inventory liability agreements this term is 60 days) – concluded the expert of Kovács Réti Szegheő Attorneys at Law.