

Rewards and incentives – should these be included in the calculation of entitlements for periods of absence?

The coming into force of the new Labour Code has brought about significant changes affecting among other things the calculation of payment for the periods of absence – this issue is addressed by the legal expert of Kovács Réti Szegheő Attorneys at Law in the legal column of Origo. The previously prevalent legal instrument of average income has been replaced by that of the payment for the periods of absence, which brings up the question whether rewards and incentives should be comprised in the basis of the calculation of absentee pay.

With the new Labour Code coming into force, significant changes have taken place affecting among other things the calculation of payment during absence – said attorney Dr. Zita Orbán.

The previous legal instrument of average income has been replaced by the legal instrument of absentee pay as the principal instrument of the calculation of remuneration, except for the cases where the Labour Code stipulates a different basis of calculation, or cases where the employee has no entitlement for remuneration in any case.

Basis and method of calculation

The applicable calculation method differs between time-based and performance-based wages. The amount of absentee pay in case of time-based wages derives from the calculation based on the base wage and if applicable any eventual fixed supplement in effect at the time when due – i.e. on the starting day of absence as a general rule.

The expert of Kovács Réti Szegheő Attorneys at Law places emphasis on the fact, that the amount of absentee pay in case of performance-based wages is calculated deriving from the performance-based wage and wage supplement paid for the last six calendar months preceding the due date.

Exclusion from the basis of calculation

However, what can be considered as performance-based wage for the purpose of the calculation of absentee pay is strictly limited to such performance wages that are paid to substitute and not to supplement the base wage (wages determined on a time basis).

It follows that no performance-linked incentives such as bonuses, premiums, commissions, rewards or any other similar motivational benefit may be included in the basis of the absentee pay and considering that the above PLIs must be excluded from the calculation of the absentee pay these do not increment the amount of the absentee pay in any way – concluded Dr. Zita Orbán.

Possibility of including wage supplements in the calculation

As the legal expert of Kovács Réti Szegheő Attorneys at Law pointed out, wage supplements may be calculated in the absentee pay only in the cases specified by the Labour Code. As a prerequisite of including wage supplements for night work and shift work in the calculation of absentee pay, the working hours of the Employee on at least one-third of all working days throughout the applicable period must be scheduled in a way which entitles the Employee to such supplements, in case of the Sunday premium it is at least one-third of the Sundays during the relevant period.