

## **The New Rules of Termination Protection in case of Pregnancy**

23<sup>rd</sup> December 2012, Sunday, 04:25 pm

**According to the expert of Kovács Réti Szegheő Attorneys at Law, the fact that in the new Labour Code the provisions on the protection of pregnant women no longer qualify as objective prohibition of termination as per the former labour laws, it would appear that the new regulation renders this group of employees in a disadvantageous situation – dr. Zita Orbán warns.**

Pursuant to the former regulation, the very fact of pregnancy constituted such an objective prohibition of termination that the termination notice served by the employer was considered unlawful even if not only the employer but even the employee was unaware of this fact.

According to the expert of Kovács Réti Szegheő Law Firm, this has triggered numerous lawsuits on labour disputes concluding that the employer was ordered – considering the irrevocability of unilateral termination notices – to pay significant amount of wages and other remuneration as a consequence of a fact which probably not even the employee was aware of at the time when termination notice was served that is, which was beyond the knowledge of both parties.

Even if the employee was aware of the fact of pregnancy but failed to notify the employer thereof, knowing that a possible termination notice shall be considered a breach of law, the legal consequences affected the employer.

### **The legislative intent**

In this regulation the legislator allowed for the realisation of such legislative intent so that cases as described above should not occur in the future deriving from one of the fundamental obligations that both parties to an employment relationship shall be observant of that is, the disclosure obligation, on the basis of which, it is expected – and should have been expected in the previous regulation – that the employee shall inform the employer of such material fact as soon as obtaining knowledge thereof.

Whereas that termination of employment falls within the Statute of Frauds and its verbal disclosure is not sufficient, the employee may inform the employer of the fact of pregnancy verbally, subsequent to being given verbal notice of termination by the employer and prior to the attempted serving of the written notice thereof.

For the employer it is not advisable to serve a written termination notice after being informed of pregnancy by the employee following the oral disclosure of termination because the termination of the employer will be considered unlawful and the legal consequences thereof will adversely affect the employer – summarised dr. Zita Orbán.