

When can employees' inherent rights be limited?

It requires especially careful consideration and circumspection of employees to handle such situations where, respectful of employees' inherent rights, for the sake of production or operation, limitation of such rights in one way or another is deemed necessary. In the opinion of the expert of Kovács Réti Szegheő Attorneys at Law, we should start out from the following premise: employee's inherent rights shall be respected however, such rights may be limited insofar as such limitation, for reasons directly corresponding to the purpose of employment, shall be deemed inevitable and is proportionate to the attainment of such purpose.

When concluding a sale and purchase agreement, pursuant to the amendment to the government decree on the certification of the building's energetic qualities, parties shall not only provide that the real property (or a distinct facility unit) representing the subject matter of the purchase and sale contract falls under the scope of the decree and that it has been conveyed to the buyer – in the event of lease in return for consideration, the lease contract shall also include such provisions – but the contract shall also include the identification code of the certificate.

Another, very important requirement is that employees shall be informed previously of the manner, conditions and expected duration of such limitation, the expert of Kovács Réti Szegheő Attorneys at Law emphasised.

Moreover, as a novelty, the new Labour Code provides that in the course of the employment, an employee may not engage in such conduct even out of the workplace, which might endanger the rightful economic interests of the employer.

Novelties, additions

In connection with employers' data management, a set of conditions remain unchanged, namely that an employee may be requested to make solely such statement or data disclosure that does not infringe upon his/her inherent rights and is essential for considerations of establishment or cessation of the employment.

However, the earlier regulation was supplemented by such provisions, which adds the aspects of fulfilment of employment duties to those of establishment and cessation, highlights dr. Zita Orbán. Employers shall inform employees of data disclosure.

In the course of employees' compliance tests, another material legal premise is that the data disclosure obligation (previous or subsequent) and the principle of purpose. In the course of compliance test, employees' private sphere shall not be unjustifiably infringed upon; furthermore, the test shall not trod upon employees inherent rights either.



Control through technical equipment

Control of employees through technical equipments also have limitations, namely that employees may in terms of solely such conducts be controlled, that are in connection with employment – while the intensity of actual performance of work are not to be controlled – the selected equipments may not entail infringement upon human dignity and control shall be driven by purpose.

The expert of Kovács Réti Szegheő Attorneys at Law emphasised, that the personal life of employees may not be subject to control accordingly, no such technical equipment may be applied in the so-called “sensitive premises” (for example: changing rooms or restrooms) furthermore, employees shall be previously informed of the application of such technical equipments, that serve the purpose of employee control.

Observing requirements of guarantee

The legislative purpose underlying the new labour law provisions was to establish that on the basis of law, and with the prior information of employees, such control of employees through technical equipments be legitimately conducted in absence of a separate employee consent however, according to the practice of interpretations, the above labour law shall not grant full authorisation to employers in this respect.

In addition to the above, observance of several requirements of guarantee renders such control fully legitimate and hence it is advisable for employers to elaborate detailed internal regulations for the handling of data wherein – among others – the detailed regulations of control conducted through technical equipments too are recommended.