

Will the Changes in the Rules of Protection Make the Termination of the Employment Relationship Easier?

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New Labor Code entered into effect in July which brought significant changes regarding the dismissal protection – said Dr Mónika Kapetz, the expert of Kovács Réti Szegheő Attorneys at Law to [origo]. According to Dr Mónika Kapetz the new rules may significantly assist in increasing the efficiency of the employer organizations and in the execution of the rationalizing, cost decreasing compared to the previous regulation.

The regulations of Act XXII. of 1992. which was in effect previously defined wide ranging the groups of employees connected to whom the ordinary dismissal protection rules had to be applied during the period defined therein; therefore the employer was not entitled to announce ordinary dismissal with the affected employees during the period defined in the previous regulation.

Some of the litigation in connection with the ordinary dismissal were initiated for the purpose of defining that the ordinary dismissal was unlawful. The expert of Kovács Réti Szegheő Attorneys at Law emphasized that the new Labour Code maintains the dismissal protection but its regulations are considerably modified by the legislator.

According to the rules currently being in effect, the employer may not terminate the employment relationship by dismissal during pregnancy, maternity leave, leave of absence taken without consideration for caring for a child, any period of actual reserve military service; and in the case of women, while receiving treatment related to a human reproduction procedure, for up to six months from the beginning of such treatment.

Information Obligation and Rules of the Reproduction Procedure

The employee may refer to the pregnancy and the treatment in connection with a human reproduction procedure related to the protection if he/she informed the employer previously regarding these circumstances before announcement of the notice. The information is not bounded by formal prescriptions, thus the employee may inform the employer orally about the facts establishing the dismissal protection before the handed over of the dismissal.

Dr. Mónika Kapetz pointed: it is an important change compared to the previous regulations that according to the currently effective Labour Code protection regarding the treatment related to a human reproduction procedure belongs only to women and the duration of the protection is limited by the lawmaker: the women is entitled for the protection from the beginning of the treatment but at least until 6 months therefrom.



From July the Employer is Entitled to...

It could be established from the above that from July the employer may announce dismissal during the duration of incapacity to work due to illness, not to exceed one year following expiration of the sick leave period, furthermore, for the entire duration of eligibility for sick pay on the grounds of incapacity as a result of an accident at work or occupational disease, for the period of sick leave for the purpose of caring for a sick child, or for the period of leave of absence without pay for nursing or for providing home care for a relative.

The dismissal announced during these periods will not be considered unlawful but the dismissal will start from following day of the termination of these periods. It can be ascertained that the lawmaker made the dismissal easier regarding those employees whose try to hinder the termination of their employment relationship with the incapacity to work due to illness – emphasized the expert of Kovács Réti Szegheő Attorneys at Law. According to the expert with the modification of the regulation the further aim of the lawmaker was the reducing of the suits initiated for the establishing of the unlawfully terminations.

It may help in more aspects

As summary the conclusion may be drawn that the employers need to be take the rules of the dismissal protection into consideration on the announcement of the dismissal in the future too but the rules may significantly help in increasing of the efficiency of the employer organizations and in the execution of the rationalizing, cost decreasing compared to the elder regulation.