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Slovakia: Employment protection in relation to business transfers

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Slovakia

Phase:

Management

Type:

Employment protection in relation to business transfers

Last modified: 11 April, 2019

Native name: **Zákonník práce**

English name: **Labour Code**

Article

27, 28, 29, 29a and 31

Description

Under [Slovak law](#) a transfer legislation applies when there is a transfer of:

- an economic unit
- an employer's task or activity or part thereof.

An 'economic unit' is defined as a 'unit which retains its identity as an organised configuration of resources (tangible, intangible and human resources) and that performs economic activities, regardless of whether these activities are significant or ancillary'. The main characteristic of an economic unit is that it is able to continue to perform the activity after it has been transferred to another employer. This definition reflects that of the case law of the European Court of Justice. When deciding whether a transfer has occurred, all circumstances indicating business continuation must be taken into account: the transfer of assets, customers and contracts, the activity performed (or part of any of the above, if they are capable of independent activity) and so on.

Slovak law provides protection for all employees of the transferor at the time of the transfer, or those employees employed by the transferor who are affected by the transfer (in the case of a partial transfer). The protection does not extend to those temporarily seconded to the transferor. Although there is no specific sanction for a failure to consult; if any of the rights and obligations outlined in the Labour Code are breached, the Work Inspectorate can impose a fine of up to €33,193.92.

Employees are not entitled to object to their transfer, so long as the obligations by both transferor and transferee were met. The employee is also not obliged to continue to work for the transferee, and may resign as stipulated in normal practice.

The transferee assumes all rights and responsibilities in regards to employment contracts agreed upon by the transferor and employees. If the transfer causes unavoidable changes to the working environment, and the employees do not agree to such change, their employment must be terminated. In such cases the employee is entitled to severance pay (equal to two or three months salary depending on the duration of service as carried forward from the previous employer).

Pension rights and other benefits are also transferred by way of the transfer. If the transferee cannot provide the benefits previously agreed upon, then it is recommended that commensurate compensation should be provided to the transferred employees, however this is not subject to sanction.

The rights and obligations arising from collective agreements will also be assumed by the transferee for its full duration. Such agreements cannot be unilaterally changed and both parties must agree to any changes.

Comments

Though the legislation requires to keep the employment relationships and working conditions, according to the trade unions, some employers try to avoid this in practice by encouraging employees to sign new employment contracts with modified terms of employment.

Cost covered by

Not applicable



Involved actors other than national government

National government only

Thresholds

No, applicable in all circumstances

Sources

-  Ius Laboris (2009), Transfers of Undertakings Guide
-  Labour Code - Slovak Republic - Slovakia

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