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Hungary: Effects of non-compliance with dismissal regulations

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Hungary

Phase:

Management

Type:

Effects of non-compliance with dismissal regulations

Last modified: 25 October, 2017

Native name:

2012. évi I. törvény a Munka Törvénykönyvéről

English name:

Act I of 2012 on the Labour Code

Article

44, Sections 82-84

Description

In general, the employer shall be liable to provide compensation for damages resulting from the wrongful termination of an employment relationship. Compensation for loss of income from employment payable to the employee may not exceed 12 months' absentee pay (a fixed salary for paid leave).

If an employment relationship was wrongfully terminated, the employee is entitled to severance pay. In lieu of severance payment, the employee may demand payment equal to the sum of the absentee pay which would have been due for the notice period when his/her employment was terminated by the employer.

In addition, on the employee's request, the court shall reinstate the employment relationship:

- if it was terminated in violation of the principle of equal treatment;
- if it was terminated during pregnancy, maternity leave, or leave of absence taken without pay for caring for a child;
- if it was terminated during any period of actual reserve military service;
- in case of women, if it was terminated while receiving treatment related to a human reproduction procedure, for up to six months from the beginning of such treatment;
- if the employee served as an employees' representative at the time when his/her employment relationship was terminated; and
- if the employee successfully challenged the termination of the employment relationship based on the former mutual consent between the employer and the employee concerned, or on his/her previous legal declaration (to accept the termination based on mutual consent).

If the employment relationship is terminated unlawfully by the employer, the employee shall be eligible to a compensation corresponding to the sum of the absentee pays that he/she would have been entitled to for the notice period.

If a fixed-term employment relationship is terminated unlawfully, the employee shall be eligible to a compensation corresponding to the sum of the absentee pays due for the time remaining until the end of the fixed period, up to maximum of three months' absentee pay.

The employers shall be entitled to demand payment for damages if such are in excess of the amount described above. These sums in total may not exceed the employee's absentee pay due for 12 months.

The provisions on wrongful termination of employment shall apply if the employee fails to leave his/her post according to regulations.

Comments

Only a few cases have been brought for non-compliance. These mainly relate to cases of failure to observe conditions regarding advance notice or other employer obligations.

The new Civil Code has removed an earlier regulation, according to which the trade union's agreement was needed to terminate the employment relationship of a trade union representative. Since 15 March 2014 the employer no longer needs this agreement.

Cost covered by

Employer

Involved actors other than national government

Other





Involvement others

Court

Thresholds

No, applicable in all circumstances

Sources

-  Clauwaert, S. and Schömann, I. (2013), The crisis and national labour law reforms: a mapping exercise. Country report: Hungary. ETUI.
-  EMCC Legal framework of restructuring
-  2012. évi I. törvény a munka törvénykönyvéről
-  Act I of 2012 on the Labour Code

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