

LEGAL UPDATE



BEATOW PARTNERS

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New Notification Obligations of Employers

Prohibition of Confidentiality Obligations on Employment Conditions

For more information on the topic discussed in this issue of the BEATOW PARTNERS Legal Update, please contact us at info@beatow.com.

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INTRODUCTION

As of January 1, 2019, an amendment to the Act No. 5/2004 Coll. on Employment Services, as amended is in force, on the basis of which a new obligation is set forth for employers to **notify a vacant job position** and its characteristics to the Office of Labor, Social Affairs and Family in whose territory the job position is located.

Furthermore, as of July 1, 2018, an amendment to the Act No. 355/2007 Coll. on the Protection, Support and Development of Public Health, as amended is in force, which sets forth a new obligation of the employer to notify **each year, no later than by January 15**, to the relevant public health authority, **data concerning employees performing work classified in the second category**, whereby the employer will fulfill this obligation for the first time on January 15, 2019.

Lastly, as of January 1, 2019, an amendment to the Act No. 311/2001 Coll. the Labor Code, as amended is in force pursuant to which the **employer is prohibited from imposing an obligation to an employee to maintain confidentiality on his/her employment conditions** including wage conditions and working conditions.

Please find below a brief summary of the above mentioned new notification obligations of the employer and the prohibition of confidentiality obligations on employment conditions of employees.

NOTIFICATION OF A VACANT JOB POSITION

- the employer is **obliged to notify** the vacant job position and its characteristics to the Office of Labor, Social

Affairs and **Family in whose territory the job position is located**,

- a vacant job position is a **new job position** or an **existing unfilled job position**,
- this obligation applies to **all employers** in the private sector,
- the employer may notify the vacant job position and fulfill its notification obligation in the **following ways**:
 - online via the webpage www.istp.sk,
 - fill-out the form notification of vacant job positions, which may be sent to the relevant Office of Labor, Social Affairs and Family by mail, fax or electronical mail (the form is published on the webpage: https://www.upsvr.gov.sk/buxus/generate_page.php?page_id=13222),
 - report the vacant job position to the relevant Office of Labor, Social Affairs and Family by telephone,
 - personally, to employees of the Office of Labor, Social Affairs and Family – agents for job position,
 - online via professional portal profesia.sk and kariera.sk,
 - if your registered office or office of your foreign branch is outside the Slovak Republic, or if you have a vacant job position with place of work outside the Slovak Republic,

you can report the vacant job position directly to the Office of Labor, Social Affairs and Family through EURES.

- **for third-country nationals (foreigners)** the job position vacancies must be advertised through www.istp.sk or through the relevant Office of Labor, Social Affairs and Family,
- in connection with the reporting of vacant job positions, it is also possible to **organize, with cooperation with the Office of Labor, Social Affairs and Family a selection procedure** for vacant job positions that the employer needs to fill.

SANCTIONS

In the case that the obligation to notify a vacant job position is not fulfilled, the Central Office of Labor, Social Affairs and Family will impose a fine to the employer up to the amount of **EUR 300**.

NOTIFICATION OF DATA RELATING TO EMPLOYEES PERFORMING WORK CLASSIFIED IN THE SECOND CATEGORY

- the employer is **obliged to notify** each year, no later than by January 15, to the relevant public health authority data concerning employees performing work classified in the second category as of December 31 of the previous calendar year,
- the employer is obliged to provide this data to the **employees representatives** as well,
- **work classified in the second category** includes work for which, after considering the risk, there is no presumption of damage to health, however an adverse response of the body to the burden of labor and working environment cannot be ruled out; this includes work for which the factors of work and the working envi-

ronment do not exceed the limits defined in special regulations (e.g. accountant, IT developer or doctor),

- in order to assess whether a particular job falls into the second category we recommend consultation with the occupational health service or a professional providing safety and health at work,
- the new obligation may be fulfilled by **electronic means**,
- the notification obligation may be fulfilled by the employer by **fulfilling a form** for the electronic notification of work classified in the second category, which the employer will fill-out on the **webpage of the Public Health Authority of the Slovak Republic** (http://www.uvzsr.sk/docs/info/ppl/form15_V05.html) and sending of the filled-out form to the email address kategoria2@uvzsr.sk,
- after processing the sent electronic form, the employer will receive a **confirmation** to his e-mail address that the **Public Health Authority of the Slovak Republic accepted a notification of data** relating to employees performing work classified in the second category,
- the Public Health Authority of the Slovak Republic will automatically secure the distribution of data to the relevant public health authorities according to the stated place of work (workplaces).

SANCTIONS

In the case that the obligation to notify data relating to employees performing work classified in the second category is not fulfilled, the relevant public health authority will impose a fine to the employer in the amount between **EUR 150 to 20 000 EUR**.

PROHIBITION OF CONFIDENTIALITY OBLIGATIONS ON EMPLOYMENT CONDITIONS

- the employer is **prohibited from imposing an obligation to an employee to maintain confidentiality** on his/her employment conditions including **wage conditions and working conditions**,
- the prohibition on confidentiality obligations will in addition to wage conditions also include any employment conditions and working conditions (e.g. length of the employment relationship or working time of the employee),
- no one may be **prosecuted or in any other way sanctioned** in the workplace for failing to maintain confidentiality on his/her employment conditions including wage conditions and working conditions; if the employee makes available any information on his/her employment conditions, the employer may not impose any sanctions on him/her,
- in the case that the **employer does not comply** with the above mentioned conditions, the employee has the right to file a complaint to the employer or bring the case to court and seek legal protection,
- **the provisions of the employment agreement or agreement** (on work performed outside of an employment relationship), under which the employee undertakes to maintain confidentiality on his/her employment conditions, including wage conditions and work conditions **are invalid** and it is necessary to remove them from such agreements.

tion will also apply to cases of breach of prohibition of confidentiality obligations on employment conditions.

SANCTIONS

In general, in the case of breach of regulations on labor law, the Labor Inspectorate is entitled to impose a fine of up to **EUR 100 000** to the employer. This sanc-