

Slovenia

A new law on temporary work regulating different forms of temporary work or so-called 'minor work' was initially passed by the National Assembly in October 2010. After heavy opposition from, among others, the trade unions, the National Council voted to delay the law, but in November 2010 the Assembly passed it for a second time. Continuing opposition from the trade unions and youth organisations, however, led to a national referendum on 10 April 2011 in which 80 per cent voted against the new law. The law regulates several forms of paid temporary or occasional work by particular categories of people, such as students, pensioners and the unemployed. However, such jobs are to be performed under a special contractual relationship which is not considered an employment relationship and thus as not falling under the protection offered by Slovenian employment law. The new law was going to allow these groups to work up to 60 hours per month and 720 hours per year (the latter only applicable to students), but with fewer rights in relation to (lower) pay, no remuneration in case of sick leave, no holiday allowance, no severance pay and no annual holidays. The new law did, however, also foresee some restrictions on the use of this kind of work by companies, depending on their size: for example, companies with 1–10 workers were restricted to a maximum of 360 hours, companies with 10–30 workers to 720 hours, those with 30–50 workers to 1,080 hours and so on. It remains to be seen how the government intends to regulate this matter in future.

In its country-specific recommendations to Slovenia for 2011-2012, the Commission recommended to "take steps, in consultation with the social partners and in accordance with national practices, to reduce symmetries in rights and obligations guaranteed under permanent and temporary contracts. Renew efforts to tackle the parallel labour market resulting from 'student work'. In response, the government stated in its national reform programme submitted to the Commission on adoption of the 2012-2013 country specific recommendations that:

"Flexicurity

Through amendments to labour legislation, an appropriate relationship between the relevant social security and a more effective adjustment to the market situation will be provided. Measures contributing to a reduction in labour market segmentation as a result of the differences in the statuses of workers employed on fixed-term contracts and those employed on permanent contracts will be promoted. As the first measure, the concession fee paid from student work will be raised from 14% to 25%, thereby considerably reducing the competitiveness of such work in terms of cost; funds collected in this manner will be earmarked for scholarships. In order to ease the transition of workers from flexible to more stable forms of employment, a system will be set up in order to increase the costs borne by employers gradually so as to give them fewer reasons to avoid offering long-term employment. The amended legislation provides for an easier transition

between posts and/or duties at an employer and between different employers. In order to reduce administration, costs and time pressures on companies, simplified procedures for the conclusion and termination of employment contracts are planned, as well as simplified inspection and judicial protection procedures, all of which will enhance the effectiveness of labour legislation protection.

The measures planned also include reform of the severance payment system, including an option to set up a severance payment fund. This fund will provide appropriate security to persons who have lost their jobs and are looking for work, and will reduce and fairly distribute the severance payment burden that is currently borne by employers. Modified notice periods and an unemployment insurance scheme will be linked with the changes planned in the area of severance payments. At the same time, the fund will enable employed persons to transform their unused funds into a pension annuity.

Amendments to labour legislation will contribute to increasing the employment of young people by making it easier for employers to adapt to labour market demands, by facilitating the integration of young people into the labour market, by enabling them to gain work experience, and by providing them with greater security. These amendments will also help reduce labour market segmentation, which is the main obstacle in the employment of young people.

Incentives will also be targeted at adapting posts to the needs of older workers. New labour legislation will facilitate the employment of older workers by modifying notice periods and through the new regulation of severance payments. In this process, supporting and preventive measures involving the adaptation of posts and ensuring health at work, including the promotion of active ageing, will be important.

In 2012, a new "mentorship scheme" is planned within the framework of a new active employment policy measure to "replace a worker at a job and job sharing", which, on the one hand, will be devoted to the passing of work experience, knowledge and skills from older workers to younger unemployed persons, while on the other hand providing the companies and their employees with the systematic introduction of new employees into the working process.

In order to prevent illegal employment, the activities carried out by the labour inspection will be strengthened, not least through the elimination of certain administrative barriers that hinder the inspection's work. The amendments to labour legislation planned will also help reduce the shadow economy by decreasing labour market rigidity and cutting labour costs.

The Government has committed itself to promptly drafting a new social contract and intergenerational contract. Negotiations with social partners for co-designing the solutions leading to the development and greater prosperity of the people of Slovenia are already underway. An intense and ongoing social dialogue, to which representatives of both older and younger generations have been invited, will be pursued until a contract with a validity period of five years and an envisaged applicability date of July 2012 is concluded."

Nevertheless, the Commission considered that Slovenia had not appropriately implemented the country-specific recommendations and that as "no concrete proposals were presented in the past year to reduce asymmetries

between the protection accorded to workers on permanent and temporary contracts respectively” and that as “the national reform programme indicates some measures to increase flexicurity and address segmentation, but provides no timetable for their adoption”, the Commission recommended for 2012-2013 that Slovenia should “adjust employment protection legislation as regards permanent contracts in order to reduce labour market segmentation, in consultation with social partners and in accordance with national practices. Further tackle the parallel labour market caused by student work.”

On 5 April 2012, the Guidelines for the Social Contract 2012-2016 were signed between the social partners. These guidelines will serve as a basis for the social partners' negotiations for the Social Contract 2012-2016. They notably address issues of competitiveness, the State, public finance, wage policy and social protection. The Guidelines also state that the fundamental issues of labour legislation, the labour market, health and pension insurance and wages in the public sector will be subject to the consent of the social partners. In addition, certain social groups (like pensioners and youth) will be invited to participate in the relevant parts of negotiations for the Social Contract 2012-2016. The Guidelines also contain a statement that Government proposals are to be submitted to the trade unions to express their views on such proposals (and the proper coordination procedure conducted) at least 30 days before they are submitted to public discussion. Alongside measures regarding public finance, pension and health care reform, the Guidelines also provide for the following:

- *Labour market*: in its draft, the government pointed out that the labour market was characterised by a high level of employee protection, and that companies were discouraged from hiring new employees by the complicated procedures and high costs related to dismissals. The final version of the Guidelines omitted this statement. The Guidelines emphasize the role of pro-active labour market policy with flexible and secure employment (so-called flexicurity) and lifelong education, though the Guidelines do not offer any concrete measures to be taken in this respect. The Guidelines support changes to the active policy of employment. They also touch on the problems of youth unemployment, stating that, accordingly, changes in working time should be taken into consideration. Finally, the Guidelines emphasize the need for corporate social responsibility.
- *Wages policy*: the final version of the Guidelines deleted the Government's proposed statement that the current wages policy was no longer appropriate and that changes should be made with a view to assuring stable and real wage increases in line with productivity. The final version states that the modelling of wages policy should be predominantly left to the social partners. It also states that state regulation of the minimum wage (currently EUR 763.06) shall be retained and that a policy encouraging companies to distribute profits among employees should be pursued.
- *Labour inspection services*: the Guidelines state that coordinated and effective inspection work is crucial for effective operation of the rule of law.

However, at the end of the process, six of the key union organizations refused to sign the agreement reached on March 30, in protest against the austerity measures recently proposed by the government. The unions concerned were: the Association of Free Trade Unions of Slovenia (ZSSS), the Pergam Confederation of Trade Unions (KSS PERGAM), the Confederation of Trade Unions 90 Slovenia (KS 90), the Confederation of new Trade Unions of Slovenia Independence (KNSS Neodvisnost), the Confederation of Slovenian Public Sector Trade Unions (KSJS

Slovenije), and the Independent Trade Unions of Slovenia (NSS). The social partners that did sign the guidelines are: the Association of Employers of Slovenia (ZDS), the Chamber of Commerce and Industry of Slovenia (GZS), the Chamber of Craft and Small Business of Slovenia (OZS), the Association of Employers of Craft and Small Business of Slovenia (ZDOPS), and the Slovenian Chamber of Commerce (TZS) on the employers side and the Slovenian Union of Alternative Trade Unions (SZS Alternativa), the Association of Workers Trade Unions of Slovenia – Solidarity (ZDSS - Solidarnost) and the Union of Representative Trade Unions of Slovenia (ZRSS) on the trade union side.

The social partners had until 20 June to negotiate this Social Contract which will remain in force from 1 July 2012 until 31 December 2016.

On 30 May, the Public Finance Balance Act (PFBA) entered into force, introducing several measures aimed at reducing the public budget deficit and balancing public finances. The PFBA introduces, *inter alia*, the following important amendments relevant for private sector employers:

- An across-the-board 10% decrease in the amount of sick/injury compensation for absence from work paid by the public Health Insurance Institute for the first 90 (calendar) days.
- A reduction from 60% to 50% of the amount of unemployment benefit for the period exceeding 12 months.
- A reduction of the paternity/maternity allowance (excluding the first three months of maternity compensation) from 2.5 times to twice the average salary in Slovenia (currently approx. EUR 1,900). Moreover, the actual amount paid paternity/maternity compensation (excluding the first three months of the maternity compensation) shall be 90% of the base amount, though the allowance will be 100% of the base amount when this is EUR 763.06 or lower.
- 2 January will no longer be a paid public holiday.

On 22 June 2012, the Ministry of Labour published a working document entitled “Starting points for the Labour Market Reform” (“Izhodišča za reform trga dela”). It contains the Government's plans for introducing several major fundamental reforms targeting the Slovene labour market, setting forth the following ten starting points for the future major labour market reforms:

- introduction of the concept of a single permanent employment contract;
- introduction of a severance payment fund;
- simplification of employment procedures (signing and terminating an employment contract, disciplinary proceedings, etc.);
- integration of employees into the labour market during the termination (notice) period;
- adaptation of employment legislation to current trends (e.g. ageing of employees);
- increased flexibility and improved working conditions;
- improved protection for employees (e.g. in the case of a transfer of undertaking);
- adjustment of employees' rights to their working duties;
- changes to the regulation covering breaks during working hours;

- adaptation of employment legislation to various international documents (e.g. OECD, Council of Europe);
- a minor change to the distribution of working time.

The most significant change would concern the introduction of the concept of a single permanent employment contract. The Labour Market Document proposes that the permanent employment contract would be a basic type of employment in Slovenia. Temporary employment contracts would be limited, and only available in very exceptional cases based on objective reasons listed in the law (e.g. replacement of temporary absent employees). The single permanent employment contract would be divided into three periods:

1. A probationary period (0-5 months of employment with the same employer): In this period, the employee and the employer would be able to regularly terminate the employment contract without stating any reasons. The notice period (10-14 days) could be replaced consensually with a right to compensation in lieu of the notice period. Under the currently applicable Employment Relationship Act (hereinafter the ERA), the employee and the employer may agree on the length of the probationary period (up to 6 months). During this period, the employer can only terminate the employment contract in exceptional cases (e.g. closure of an establishment, gross breaches of employee's duties) and can generally only terminate the employment contract on expiry of the probationary period when the employee has not successfully completed the period. During the probationary period, the employee can terminate the employment contract at any time, giving seven days' notice.
2. An adaptation period (5-24 months of employment with the same employer): During this period, the employer would be able to pronounce an ordinary or extraordinary termination of the employment contract for reasons already listed in the currently applicable ERA (business reasons, gross misconduct, incapacity or disability, and extraordinary reasons as already established in the law). However, the Labour Reform Document proposes eliminating or simplifying certain steps currently required under the ERA (elimination of prior warning before termination for gross misconduct, elimination of the need to check whether alternative employment is available in the case of termination for business reasons or incapacity, simplification of the defence hearing, elimination of the deadline for issuing a termination letter (except for gross misconduct), simplification of grounds to be contained in the termination letter, the option to use ordinary termination for gross misconduct instead of having to pronounce extraordinary termination).
3. A period of stability (>24 months of employment with the same employer): During this period, the majority of eliminations or simplifications stated under the previous period (adaptation period) are retained. However, the employer would in this period still be obliged to issue prior warning before termination for gross misconduct and would still need to check whether alternative employment is available in the case of termination for business reasons or incapacity. Introduction of the new system would require a reasonable transitional period.

In any subsequent court proceedings, under the Labour Reform Document, the court would have the discretion to take a decision, at the request of either party, on the employee's reinstatement or on the payment of compensation in lieu of reinstatement. Such options are currently rather limited.

Important changes are also planned with regard to notice periods. Notice periods would generally be shortened, with the maximum notice period for cases where the employment contract is terminated by the employer set at 90 days (instead of the current 120 days).

As a new exception to the single permanent employment contract, the Labour Reform Document proposes the introduction of a new contract for occasional or temporary work. Work under this contract would be subject to several conditions (e.g. not representing regular work, earnings limited to EUR 2,400 per year / EUR 200 per month, individual definition of the hours to be worked at the level of a particular employer, etc.).

A second major pillar of the reform is the establishment of a new severance payment fund. For employers, it would mean that they would need to pay additional contributions on top of the employees' gross salaries. The authors of the Labour Reform Document are of the opinion that the contribution rate of 0.58 of gross salaries would not entail any extra cost for the employers, stating that these contributions would replace the current employer obligation to make a severance payment upon termination for business reasons or incapacity. Employers would be obliged to enter into a contract with a severance payment fund. The contributions would be paid either to the severance payment fund or to the health insurance (together with health insurance contributions). Under the Labour Reform Document, severance pay contributions will be individually credited to each employee's individual account. An employee would be entitled to payments from the fund in cases where termination is not voluntary or due to gross misconduct. Any remaining monies in an employee's account would be paid out on retirement. Payment could be made either as a (fully taxable) one-time payment directly to the employee or as a contribution to the supplementary pension system. Employees starting a new job after introduction of the new law would be automatically obliged to join the severance pay fund. Other employees (already employed before introduction of the fund) would have a transitional period of 10 years to join the new severance payment fund (until then, they will retain the rights gained under the current system).

Other important changes proposed in the Labour Reform Document include:

- the elimination of the obligation to communicate vacant positions to the employment office;
- limited entitlement to severance pay in the case of consensual termination of employment (such an option is currently not available);
- wage supplements for years of employment would not be determined by law but could be defined in the applicable collective agreements; they would be limited to the years of employment with the last employer (and not aggregate years of employment with all employers as is currently the case);
- more flexible organization of work, including an option for an employer to order work not agreed in the employment contract;
- additional powers granted to the labour inspector (including additional financial sanctions for breaches of employment legislation);
- determination of the maximum duration of annual leave;
- introduction of an option regarding on-call work with 70% lower compensation (currently 100%);
- changing the regulation providing for a 30-minute break during the working day, including the elimination of the current inclusion of this break as part of the 8-hour working day. The break is currently fully paid:

under the Labour Reform Document it would only be paid when set forth in the applicable collective agreement.

Whereas the employers' association welcomed the Labour Reform Document, the trade unions were more reserved. Discussions between the social partners were due to start in autumn 2012 with a view to the Slovene parliament adopting the labour market reform by the end of 2012. However, on 18 October 2012, the Slovene government surprised the social partners by submitting two new bills to the Slovene Parliament: the Bill on the Employment Relations (*Predlog zakona o delovnih razmerjih*) and the Bill on the Regulation of Labour Market (*Predlog zakona o spremembah in dopolnitvah zakona o urejanju trga dela*).

As for the changes to employment relationships, the Government supports a new proposal for employment legislation based on suggestions put to the Slovene Government by various domestic and international institutions (European Commission, OECD) emphasizing that the Slovene employment market is not very flexible as regards permanent employment contracts and that employment costs are also rather high. The Government is therefore now proposing the following main changes:

- damage liability for breach of the regulations prohibiting discrimination, sexual and other harassment and mobbing at work;
- use of information technology for publicly announcing vacant job positions
- new rights for unselected job applicants;
- internal flexibility – the option for an employer to order an employee to perform work not agreed in the employment contract;
- a special system of (temporary/permanent) employment contracts for high-ranking employees (legal representatives, directors, managers);
- additional protection for employees working for a temporary employment agency;
- on transfer of an undertaking: additional liability of the employer transferor for the case when the employer – transferee is just a fictitious (letter-box) company;
- simplification of termination proceedings (prior notification, defence hearing, offers of alternative employment), changes to the notice period (shorter, up to 60 days) and changes to the payment of severance pay;
- an option for the employer to terminate the employment contract with a notice period of 7 days due to unsatisfactory work would be available during the probationary period;
- the prohibition of night work for women in industry and construction would be abolished;
- annual leave would be granted in proportion to the period of employment in the particular calendar year;
- disciplinary and damage liability proceedings would be simplified;
- additional rights would be granted to the labour inspector;
- additional breaches of employment legislation would be fined.

It is worth noting that the current bill differs greatly from the planned labour market reform announced in June 2012; in particular, the government has removed the concept of a single permanent employment contract from the bill.

With regard to labour market reform, and in view of the need for additional flexibility in the labour market, the government proposes *inter alia* to:

- decrease unemployment benefit (from 80% to 70% of the calculation basis);
- remove the obligation to register vacant job positions (such obligation would be retained for the public sector and state-owned companies);
- provide for the registration of an employee in the job seekers' register during the notice period (i.e. while still officially working);
- provide an option for temporary and occasional work (maximum 60 hours a month) for unemployed over-50's and the retired;

Although both bills have been subject to tripartite negotiations with the social partners (the Government, the trade unions and the employers' associations), the versions adopted by the Government and submitted to the Slovene parliament have not been fully agreed among the social partners. Negotiations with the social partners are therefore to continue with the aim of gaining their full consent. If this is not reached and the bills are nevertheless adopted by the Slovene parliament, Slovenian social partners have the option to put them to a referendum.

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