

Dear readers,

On May 16 this year, the epidemic alert changed to epidemic threat. We explain below whether and how this affects employers.

We also write about the proposal to extend the rights of trade unions to request information from employers about the algorithms used at the workplace.

This issue of HR Perspectives focuses mainly on two EU directives concerning work-life balance and transparent and predictable working conditions in the EU, which are supposed to be transposed into the national legislation this August. Achieving the objectives and complying with the provisions of the directives requires substantial changes to the Labour Code. We discuss the most important of them.

You will also find the agenda of the upcoming events organised by PCS | Littler below. We invite you to participate.

Enjoy your reading!

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I. From the state of epidemic to epidemic threat

The transition from the state of epidemic to epidemic threat announced on May, 16 has left many employers concerned that it would bring about some revolutionary changes. However, these concerns are unfounded. Most of the anti-crisis provisions will also apply during the epidemic threat. In particular, these include the provisions on remote working, overdue leave, employee medical examination and rules for employers terminating non-competition agreements after the end of the employment relationship.

Employers will face significant changes only when both of these states are lifted, which means when the state of epidemic threat is also recalled. However, the government plans to maintain it at least until September this year.

II. Will trade unions get information about the algorithms used in the workplace?

Trade unions' right to information from employers may be significantly extended. According to the latest proposal by the left-wing MPs, trade unions would be given access to information about the "parameters, rules and instructions" concerning the AI systems or algorithms used in their workplaces.

The planned change is very cryptic, which means that, for now, it should be taken with a grain of salt. The scope of information that a trade union would be entitled to receive has not been defined in any way. Providing such information can pose a cyber security and personal data protection threat for employers. Therefore, the scope of such information should be precisely set out by the regulations. Employers may further protect their interests by concluding confidentiality agreements with unions, which would prevent the union and its representatives from disclosing information received from the employer to unauthorised entities.

III. Work-life balance and transparent and predictable working conditions - proposed amendments to the Labour Code

An employer will not be able to prohibit an employee from having an employment relationship with another employer unless they conclude a non-competition agreement

According to the planned amendment, an employer will not be able to prohibit an employee from simultaneously remaining in an employment relationship with another employer based on the contract of employment or other.

This will not apply only if the employer concludes a non-competition agreement with the employee.

Employment contracts for a trial period - employers will have to determine the length of the intended employment in advance

Currently, the employment contract for a trial period may be concluded for no longer than 3 months. According to the draft, the permissible length of the trial contract will depend

on the period for which the parties intend to work together. If an employer plans to enter into a contract with an employee for a fixed period of fewer than 6 months after the trial period, the employment contract for the trial period could be concluded for no longer than one month. If the next contract (for a fixed period) is to cover at least 6 months but less than 12 months, the contract for a trial period could be concluded for a maximum of 2 months. These periods could be extended by no longer than one month if justified by the type of work. This proposal is controversial because it flies in the face of the purpose of concluding a trial period contract. Employers use contracts for a trial period to evaluate employee qualifications and suitability for the job. Therefore, it is questionable why and based on what criteria an employer should decide whether or not to enter into an employment relationship with a candidate and for how long even before concluding a contract for a trial period. Moreover, the question remains as to what happens if the employer's plans concerning the length of the employee's subsequent employment change in the meantime, especially because the employer's business needs and demand for that employee's work have changed.

Fixed-term contracts termination - the employer will have to provide a reason

So far, an employer had to justify only the termination of the contract for an indefinite period. New regulations require giving reasons also for the termination of fixed-term contracts. Furthermore, the employer will have to consult such a decision with a trade union. Although the trade union's refusal cannot prevent the termination of an employment relationship, a failure to consult may render the dismissal unfair.

Time off work for employees in emergency situations

Employees will be allowed to take additional 2 days or 16 hours off work per calendar year for emergencies (caused by force majeure or urgent family matters). For the time of absence, employees will retain their right to remuneration equal to half of their normal remuneration for work.

Carer's leave for employees providing personal care or support to a family member

Employees will be entitled to use up to 5 days in a calendar year to provide personal care or support to a family or household member who requires a significant amount of care or support for serious medical reasons. The application for this leave may be submitted by an employee in paper or electronic form 3 days before the planned beginning of the leave. The duration of the carer's leave will be counted towards the period of employment on which the employee's rights and entitlements depend.

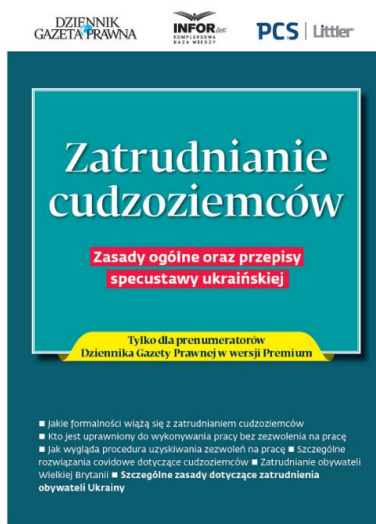
Extension of the scope of information provided to newly hired employees

Employers will be required to provide information about terms and conditions of employment within 7 days after an employee has been admitted to work (now it is 7 days after concluding the employment contract). Apart from the information that must be given to employees under the Labour Code provisions, employers will be required to inform the employees about, for example, their right to work breaks and training provided by the employer, rules

for overtime work and for moving between different workplaces (if there is more than one), as well as the applicable employment termination procedure. The way of providing information will also change. Employers will finally be allowed to do it in electronic form (a qualified electronic signature will not be required).

New obligations for employers terminating employment contracts

According to the draft, employers will have to prove that there were objective reasons for terminating employment contracts with specified categories of employees. If a terminated employee finds out that their employer has taken any retaliatory measure against them, this employee will have 7 days to request the employer to provide sound reasons for such measures. The employer will be obliged to respond within 7 days.



We also invite you to read our latest publication **Zatrudnianie Cudzoziemców - zasady ogólne oraz przepisy specustawy ukraińskiej** (Employment of Non-Nationals - general rules and provisions of the Ukrainian emergency legislation) published together with *Dziennik Gazeta Prawna*.

The publication discusses such issues as:

- Who can work without a work permit;
- What is the procedure for obtaining work permits;
- Emergency Covid-19 solutions for non-nationals;
- Special rules concerning the employment of Ukrainian citizens.

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More: [here](#).