

We have prepared this brief guide to provide our foreign clients with the basics of Hungarian Labor Law regulations. We start with a general overview of the applicability and **scope of Hungarian Employment Law**. We then focus on the mandatory requirements for **individual employment contracts** and the advantages of collective agreements. A key part of this guide is a list of the main **employee entitlements** (for example maximum working time, minimum holiday, minimum wage, parental rights, etc.) which should be recognized even if a Hungarian citizen is working abroad. Part three addresses **terminations of employment relationships** both for individual dismissals and for mass redundancies and provides useful tips for employers should they undergo a company re-organization. Finally we look at **social security contributions and employment taxation**.

We trust that the **Hungarian Employment Law Basics** will provide a general understanding of Hungarian employment law and make your decisions in this area easier. If you have any questions concerning the information provided in this guide, or if you need more specific information on Hungarian employment law, please do not hesitate to contact us at employment@sooslaw.hu.

Please note that significant changes and revisions are expected to enter into force in Hungary in the form of a **New Labor Code**. The draft of the new legislation is not publicly available yet.

GENERAL INFORMATION

The main provisions regarding employment are set out in the Labor Code of Hungary (Act No. XXII of 1992) in force since July 1, 1992. The Labor Code is fully harmonized with all applicable EU Directives and is applicable to all employment relationships within the territory of Hungary or if a Hungarian citizen is employed outside of Hungary for a temporary period.

Foreign employees from EU/EEA member states posted to work in Hungary are subject to certain statutory provisions of Hungarian law and in most cases are subject to an anonym notification to the Labor Authorities.

Hungary recognizes the freedom of contracts, therefore the parties may mutually agree in the application of foreign law provided that mandatory provisions of the Labor Code are applied.

Employment of foreigners

The principles of free movement of labor and services apply to all EU/EEA citizens working in Hungary. No work permit is needed for employees from these countries but for several countries there is a requirement for obtaining visa.

Citizens from other countries must obtain a work permit with certain exemptions (such as for example the exemption of executives of a foreign company or of key-experts).

Employment contracts

In addition to identifying the parties (including all basic information necessary for identification such as tax number), an employment contract must specify at least the following three elements:

Basic salary: The gross basic salary must be determined in HUF (and shall not be paid in any other currency). Other elements may be set out in a separate policy.

Job profile/position: The employment contract must identify the position. The detailed duties assigned and the level of qualification associated with the position may be set out in a separate job description attached to the employment

agreement. This document can be circulated later within 30 days from the date of the signing.

Place of employment: The employment contract must specify whether the place of employment is fixed or variable. It is always recommended to stipulate variable work place since if the work place is fixed the employment contract must be amended mutually by the employer and the employee in case of a transfer of undertaking.

Collective agreements

Many companies still have collective agreements in Hungary. Collective agreements can be easily terminated by the employers (with a 3 months written notice without reasoning), however in practice a collective agreement may have several advantages, for example overtime can be extended on the level of a collective agreement to 300 hours per a calendar year (which is only 200 hours if there is no collective agreement).

EMPLOYEE ENTITLEMENTS

Working hours/overtime

A full time working week consists of a maximum of 40 working hours.

The employer can demand on average a maximum of 8 hours of overtime work per week, but no more than 200 (300) hours per year. If the employer unilaterally orders overtime the employee must accept it and work. In certain cases, however, overtime is prohibited even if the employee consented to it (for example pregnant woman or juveniles).

Labor Authorities examine overtime and overtime payment with special care.

Hungarian Employment Law in Numbers I.

- weekly – 40 hours working time + 8 hours overtime or weekly 60 hours + 12 hours by day in very limited cases
- 20 days basic holiday
- 28 weeks maternity leave / 2 years parental leave
- minimum monthly wage HUF 73,500; as for those who have a secondary school education, HUF 89,500 (approx. EUR 350)

Holiday

The length of holiday depends on the age of the employee; each employee is entitled to a minimum of 20 work days per calendar year (pro rare). In several cases there are mandatory additional days (for example for new fathers and juveniles). The employer is entitled to determine the allocation of 75 percent of the basic holiday. In Hungary there are 11 statutory public holidays.

Sickness

Each employee is entitled to 15 days of sick leave per calendar year (paid by the employer). The employee's incapacity to work must be duly certified by a physician. From the 16th day the social security system pays for the employee. Employees are paid 70% of their regular salary during the period of sick leave, following the expiration of which, the employee becomes entitled to sick pay, if incapacitated to work due to illness, as certified by a physician.

Maternity/parental rights

Expectant mothers are entitled to 24 weeks of maternity leave, commencing four weeks preceding the expected date of birth. During leave, the employee is entitled to receive 70% of her average earnings, which is paid by the social care services.

Parental leave must be granted to any parent employee who requests it at any time from the end of parental leave (for mothers) or the second anniversary of the child. It is possible to work in full-time and receive some kind of parental support (GYES) until the second anniversary of the child.

Currently significant reform of the family support system is expected.

Minimum wage

As of January 1, 2010, the guaranteed monthly minimum wage is Hungarian forint (HUF) 73,500. As for those who have a secondary school education, HUF 89,500 (approx. EUR 350) is the minimum wage.

TERMINATION OF EMPLOYMENT

The procedure of termination of an employment relationship differs if the employment agreement is concluded for a fixed term or for an indefinite period. Further, different rules apply to executives and "simple" employees. Furthermore, members of the works council and officers of the trade unions enjoy special protection.

Notice periods and severance payments

The statutory notice period is 30 days at minimum and shall be extended based on the lengths of the service time. It can be extended by mutual agreement up to one year. In case of ordinary dismissal by the employer the notice period commences on the first day following the communication of the termination. The employer must relieve the employee from performing work for at least half of the notice period, but may also decide to do so for the entire period. The employee is entitled to his/her average salary for the period of relieve.

The eligibility for severance pay also depends on the length of the service time. The minimum amount is one month (after 3 years of employment) and must be extended depending of the service time. Employees under "protected age" enjoy special benefits and they must receive three-month additional severance payment as it is set out in the Labor Code. However, employees qualifying as pensioners are not entitled to severance payment. This latter rule is currently under revision of the Constitutional Court.

Protected employees

An employer may not lawfully dismiss certain employees. During a protective period (e.g. pregnancy, illness, IVF treatment) employees shall not be dismissed. Members of the work council and officers of a trade union enjoy special protection.

If an employment relationship of a protected employee is terminated by the employer during the protection period (and for a further 15/30 days) that renders the termination per se illegal. The legal risk of an illegal termination can be estimated in 3-4 years worth average salary.

Business reorganisations and redundancies

All employers having more than 20 employees must consult with the employee representation bodies (works councils, trade unions or ad hoc committees) before making any decision on mass redundancies. A notice of termination must be delivered to each employee clearly stating the reasons for termination as organizational grounds at least

30 days prior to the individual dismissals. Any breach in this procedure may render all terminations invalid.

TAXATION OF EMPLOYMENT

As a preliminary note we highlight that taxation is currently under significant revisions and a reform is expected from 1 January 2011. The scope of taxation of an individual working in Hungary depends on his/her tax residency status. An individual who resides in Hungary for more than 183 days in a calendar year, either continually or in several periods, or who is domiciled in Hungary (i.e. has a permanent residence in where he/she intends to stay permanently), is considered a Hungarian tax resident, and all his/her income is subject to taxation in Hungary.

Basis and rates of income taxes

Taxation on employment income is derived from the gross employment income increased by the mandatory social security and health insurance contributions paid by the employer (the "supergross wage"). Tax is calculated on the supergross wage. Tax rates are determined depending on the yearly gross income. Some employment income paid in addition to the supergross wage is not taxed, while others are taxed at 25%.

Social security and health insurance contributions

As of January 1, 2010, *the employer* pays a 3% of health contributions, including: In-kind health insurance contribution: 1.5%, Cash health insurance contribution: 0.5%, Labor market contribution: 1.0%. In addition to the above, the employer must pay 24% pension insurance contribution and in some cases 13% early retirement insurance contribution.

Simultaneously, *the employee* pays a 7.5% of health contributions, including: In-kind health insurance contribution: 4.0%, Cash health insurance contribution: 2.0%, Labor market contribution: 1.5%. In addition, he/she also pays 9.5% pension insurance contribution (including a 1.5% private pension fund contribution and an additional 8% as a private pension fund membership fee). The employee contributions are capped by the social security legislation.



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