



Labor and Employment in Poland

Insights

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This is the sixth article in a series about Central and East European employment law issues.

Since 1990, Poland has been steadily transitioning to a liberalized economy, and although progress has been rocky at times, Poland stands out as a bright spot among its fellow transitional economies. Poland still struggles with rigid labor and employment laws, low-level corruption, and creaky infrastructure, but boasts an educated workforce, and according to the World Bank, ranks 62 out of 183 economies for ease of doing business (a slight decrease from 2011). As of the post date of this entry, Poland is in the midst of co-hosting the Euro 2012 competition (for those of you who may be scratching your heads – the Euro 2012 is a showcase of the world’s most popular sport – the “beautiful game” known as football the world over, and soccer to most Americans), which to date has gone off fairly smoothly, and has served to introduce many to the beauty of Poland and its capability to host a major international event.

Background

Poland is a democracy, with its current constitution in place since 1997. The head of government is the president, who serves a 5-year term, and a prime minister. There is a bicameral parliament, with a lower house, the Sejm, consisting of 460 members, and an upper house of 100 members, the Senat. The Polish economy has continued to remain fairly strong during the global recession, and as of early 2012, had not entered recession. Although many Polish citizens took advantage of their European citizenship to see work elsewhere, a number of highly-educated, English-speaking Poles have returned to Poland in the last couple of years as jobs in western Europe have dried up and those economies struggle with stagnant growth. Tourism, banking, and energy are all important industries in Poland, and Poland exports textiles, machines, and chemicals, among other products. The zloty is the Polish unit of currency, and as of the date of this post, one Euro was roughly equal to 4.27 zloty and one dollar equal to approximately 3.40 zloty.

The Labour Code

The Labour Code, along with secondary legislation and collective bargaining agreements, are the primary sources of labor and employment law. The Labour Code was enacted in 1974, but has been amended numerous times. Employers doing business in Poland are advised to review relevant Labour Code provisions on a regular basis. Perhaps surprisingly, given Poland’s history with organized labor, only about 20% of all Polish employees are covered by some type of collective bargaining agreement.

The employment contract

As in most European countries, the employment contract establishes the essential terms of the employment relationship. Under the Labour Code, the employment contract must be in writing and must include the following information, at a minimum:

- The names of the parties to the contract;
- The date employment commences and contract execution date;
- The type of contract (e.g., fixed term, unlimited term, or contracts for specific tasks);
- Type of work to be performed;
- Location where work will be performed;
- Salary amount, how often wages are paid;
- Working hours (on a daily and weekly basis);
- Entitlement to holidays;
- Required notice period.

Employers should note that these terms are required to be in writing at the outset of the employment relationship, and seven days after the commencement of employment for additional terms.

Termination of employment

Employment contracts may only be terminated based on the grounds enumerated in the Labour Code. For an individual dismissal without notice, the employee may only be dismissed for (1) gross violation of job duties; (2) employee committing a crime which makes it impossible for him or her to continue with his or her job duties; or (3) employee loss of necessary license/authorizations, etc. Under certain circumstances enumerated under the Labour Code, employees may be entitled to severance, and terminations in violation of the Labour Code may be appealed to the Labour Court. Remedies include reinstatement or payment of damages

Non-competition agreements valid

Under the Labour Code, employees may be subjected to post-employment restrictions on employment provided they are paid a minimum salary for the duration of the on-competition period. Although the contract must specify the period of the restriction, the period is not limited by law, but cannot be unreasonable.

Equal Treatment under the Labour Code

The Labour Code requires equal treatment of all employees, with respect to commencement and termination of employment, pay and work-related benefits, promotions, and training. Employees are protected on the basis of gender, age, disability, race, religion or belief, nationality and ethnic origin, political views, trade union membership, sexual orientation, and employment contract status (i.e., whether unlimited, fixed term or specific task). The burden to prove there was no discrimination

rests with the employer, and sexual harassment can lead to criminal liability, including fines and/or imprisonment.

Although this is only a brief overview, it is important to note that trade unions, collective bargaining, and employee work councils are also permitted under the Labour Code, and foreign employers doing business in Poland should take care to review all potential contracts and agreements pertaining to its operations before taking any actions that may affect employee rights, or the terms and conditions of employment.

Related People



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