

SLOVAKIA

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1. Are there any laws that govern a layoff of employees? If so, what do the laws require?

The layoffs of employees are governed by the Act No. 311/2001 Coll. Labor Code as amended ("SLC"). The SLC requires that layoffs are executed by a written notice with a termination period of 2 months in general, although under specific circumstances the period is 3 months. The employer can give notice on termination only for reasons expressly stipulated in SLC, such as (i) the employer or part of it is closed or relocated or (ii) the employee becomes redundant due to some written resolution on organizational change, change in duties, or a technical equipment upgrade resulting in a reduction in the number of employees with the aim of increasing work efficiency.

The employment relationship can be terminated for any reason pursuant to an agreement between the employer and employee. Sale of the employer's enterprise is not considered a reason for employer's termination by means of a notice. Termination of at least 20 employees within 90 days for the above mentioned reasons either by a notice or agreement or for other reasons not related to an employee's job performance is considered mass layoff.

2. Are there any formal requirements for terminating an employee or groups of employees?

The termination notice with explicitly defined termination reason must be delivered in written form to the employee. The employer is obliged to negotiate termination of an employment relationship with representatives of employees on basis of a written request in advance.

There are certain additional requirements connected with the mass layoff. The employer shall negotiate with representatives of employees the measures enabling avoiding a mass layoff at least 1 month prior to the mass layoff's scheduled commencement. For this purpose, the employer must provide written information to the employees such as the reasons for mass layoff, the overall structure of employees, and the number and criteria used for selecting which employees will be affected by mass layoff. The same written information shall be submitted to the state labor authority.

In addition, after the above mentioned negotiations the employer is obliged to submit written protocol summarizing the negotiations to the employees' representatives and the state labor authority. The employer is entitled to terminate the employment with employees only after 1 month has passed since the written protocol was properly delivered to the state labor authority and to the representatives of employees.

3. Are there special legal requirements for a layoff caused by redundancy in the workforce?

The redundancy of an employee shall be the reason for the organizational change. When terminating the employment by a notice due to organizational change, the employer must decide on organizational change by a written resolution in advance. In addition, the

employer is entitled to terminate the employment relationship by a notice only in such a case where (i) the employer does not have possibility to re-employ the employee, not even for a shorter time or (ii) the employee is not willing to shift to other work offered to him by the employer in the same place.

4. Are there employment laws that laid-off employees can use to challenge their inclusion in the layoff?

The employee is entitled to file a claim for invalidity of termination of the employment relationship within 2 months from the due date of employment termination. According to the Act No. 365/2004 Coll. Antidiscrimination Act the employee is entitled to claim that the inclusion in the layoff violates equal treatment principles due to race, origin, gender, age, religion, etc.

5. What sanctions or penalties may be imposed against employers for violating any of the requirements mentioned in Nos. 1-4 above?

If the employer does not fulfill legal requirements for termination of employment of an employee, the termination is considered invalid. Should the employee insist on employment, the employment is considered to remain unbroken. In such a situation, the employer is obliged to provide the employee with salary compensation. Should the employee's claim for salary compensation for a time period exceeding 12 months arise, the court may decrease the compensation to 12 months at the employer's request. If the additional legal requirements outlined for mass layoff are not fulfilled, the termination is still valid, but the employer is obliged to provide the employee with salary compensation for 2 months. In connection with discrimination the employee may demand that the employer refrain from terminating him, remedy the illegal status of the affairs and provide appropriate relief and indemnification. In addition, due to any breach of the provisions of SLC the penalty up to EUR 33,193.91 may be imposed by the state labor authorities.

6. What are the one or two most common mistakes that employers make that lead to liability for a layoff?

Employers sometimes do not properly specify the reasons for termination in the termination notice. At times, employers do not fulfill the obligation to inform the employees' representatives especially with respect to termination by a notice that is not included within the mass layoff.

7. What other employment issues are likely to arise from a layoff in your jurisdiction that you have not addressed in your answers to the previous questions?

Should the employment relationship be terminated because (i) the employer or part of it is closed or relocated or (ii) the employee becomes redundant due to a written resolution on organizational change, the employer shall pay the severance payment at least in amount corresponding to the salary for 2 months.