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I. Employment and labour legislation

1. The Regulation System

After the change of the economic and political regime, in the context of transition to market economy, the management of the human resources, of labour, made its appearance as factor of production factor and the labour market has gradually become part of the economic market as a consequence.

In the competitive sector, the new civil-law-type Act XXII of 1992 on the Labour Code (the LC) replacing the previous administrative-type regulation was codified and introduced in response to the market economy needs. It is typical of the general approach of the new Labour Code that it restricts the scope of legal intervention by the state very definitely, and it includes mandatory, cogent, provisions in regard of the parties to the employment relationships exclusively in relation to the specification of the guaranteed content elements, the so-called minimum standards, of the employment relationship. (Such provisions include the rules on maximum working time and overtime, the mandatory rest period, the employer' and the employee's liability for damages and the prohibition of dismissal.) All other employment-related issues must be agreed upon by the employer and the employee. That is, in the changed situation, the state issues regulations in its capacity of defender of public order, not as owner.

The scope of Act XXIII of 1992 (Ktv.) on the legal status of **civil servants** covers the administrative organisations, the offices of the boards of representatives of the municipalities and the regional general administration bodies of the Government, as well as civil servants and administrators in legal relationship with them. The manual worker employees of administrative authorities have special legal status. They are within the scope of the LC, not the Ktv. And, consequently, they are not subject to a civil servant, but to an employment relationship subject to the general rules of the Labour Code and its special rules discussed under a separate chapter within it.

2. Traditional forms of employment

2.1. The concept of employment

The LC does not define the concept of employment. According to the definition developed in practice and in science, employment is a legal relationship established between the employer and the employee by the agreement of the parties (work contract), for the purpose of work. Irrespective of the name of the contract, the legal relationship established between the parties is defined by its content. Some activities may be exercised under an employment relationship and equally under other legal relationships established for the purpose of work (e.g. service contract, business contract), in function of the will of the parties, given the nature of the work and the principle of contractual freedom. Some activities, however, can only be exercised under an employment relationship concluded by the parties, owing to the nature of the work processes, and in derogation of the overarching principle of contractual freedom.

The main characteristics of employment are the following:

- long-term relationship between employee and employer characterised by a relationship of subordination and superiority between the parties;
- the employee
  - carries out specific job tasks, as instructed by the employer,
  - works for wages,
  - accomplishes his task in compliance with the employment regulations, the agreement of the parties, the instructions of the employer and as is customary in the trade, in accordance with the interests of the employer,
  - performs work at the place specified under the work contract, in a state fit for work, in the prescribed working hours, personally, continuously and regularly, under the extensive inspection right of the employer;
- the employer shall
  - employ the employee as specified in the work contract, the employment regulations and other legal regulations,
  - provide the conditions required for safe work,
  - provide the employee work instructions,
  - pay the employee the labour wages and other benefits (remuneration) specified under the work contract.

2.2. The parties to the employment relationship

The parties to the employment relationship are the employee and the employer.

All persons entering into an employment relationship as **employees** must be at least sixteen years of age. By way of derogation from this rule, an employment relationship may be entered into by a person of at least fifteen years of age pursuing elementary school, vocational school or secondary school full-time studies, during the school vacation period. Young persons over fifteen ears of age and under sixteen years of age may enter into an employment relationship only with the consent of their legal guardians. No deviation made from the above provisions shall be considered valid. It follows from the above that a young person having reached the age of 16, not subject to compulsory schooling any more, may enter into an employment relationship without the consent of his/her legal guardian.

Young persons under 15, subject to compulsory full-time schooling, may be employed for the purposes of performance of artistic, sports, modelling or advertising activities upon prior authorization by the competent guardian court. The above shall duly apply as regards the performance of work by way of means other than employment contract (service or business contract). The work contract, service or business contract shall be concluded only in possession of the said authorisation, and the legal relationship shall be established exclusively for the period specified in the consent.

Pursuant to the effective provisions of Act LXXIX of 1993 on Public Education, the compulsory schooling of children in the Republic of Hungary is currently subject to two kinds of regulations. Pursuant to the earlier provisions of the Public Education Act, compulsory full-time schooling lasted until the end of the school-year during which the pupil reached the age of 16. According to the effective provisions of the above-mentioned Act, compulsory full-time schooling lasts until the end of the school year in which the pupil reaches the age of 18. Pursuant to the transitional provision, however, the compulsory schooling obligation of

children having started their studies in the first grade of elementary school in the school-year of 1997/98 or earlier lasts until the end of the ear in which they reach the age of 16.

All **employers** must have legal capacity. Consequently, the employer may be a natural entity (private person or individual entrepreneur), a legal entity (e.g. public company, trust, other public business organisation, co-operative, incorporated business association, social organisation, the company of individual legal persons, a subsidiary, foundation, municipality) or an unincorporated association (e.g. civil association, building society, unincorporated business association such as a general partnership or a limited partnership).

2.3. Establishment of the employment relationship

An employment relationship is established by an **employment contract.** Employment contracts shall be concluded in writing; this obligation shall be fulfilled by the employer. The employment contract shall be signed by the party exercising the employer rights on behalf of the employer, and by the employee himself.

The employment contract shall indicate the name/identity of the parties and their particulars of relevance for the employment relationship. The LC does not provide an itemised list of the data to be specified in the employment contract. According to the established legal practice, however, the following shall be considered as data of import: data required to identify the parties and data to be known by the other party in the interest of the fulfilment of obligations and the exercise of rights based on the regulations applicable to the employment relationship or other legal regulations. Upon the conclusion of the employment relationship and, subsequently, an employee shall only be requested to make a statement, fill out a data sheet which does not violate his personal rights and which essentially provides substantive information for the aspects of the establishment of an employment relationship. That is, the employer shall exclusively request such data of the employee as are necessary for the records related to the employment relationship. Only data related to the employment relationship and to work performance shall be entered in these records, which shall only be communicated to a third party – in particular and, especially, a new employer – after the termination of the employment relationship, with the consent of the employee. The only exception to this rule is the employer's obligation to supply data as specified by the legislation.

Three mandatory content elements must be specified in order to conclude an employment contract: the personal base wage, the job profile and the place of work. The employer and the employee may agree on any other issue as well (e.g. specification of the date of commencement of the employment, compulsory trial period, specification of reasons of extraordinary dismissal, benefits in addition to the wages, etc.). However, the agreement of the parties shall not be contrary to the regulations applicable to employment. Consequently, the employment contract shall not be contrary to the collective bargaining agreement, except if it establishes more favourable conditions for the employee than the latter. If the parties agree on an issue in the employment contract, the agreement shall be binding for both the employer and the employee.

2.4. Period of employment

Employment may be of a fixed duration (fixed term) or an unfixed (indefinite) duration. In the absence of an agreement to the contrary, an employment relationship is established for an unfixed duration.

The period of fixed-term employment shall be determined according to the calendar or by other appropriate means. If the duration of employment relationship is not determined by the calendar, the employer is obliged to inform the employee of the expected duration of employment (e.g. in case of the replacement of sick employee or an employee who is absent for an indefinite period due to some other reason). The duration of such a fixed-term relationship – including the term of its extension or of another fixed-term employment relationship established within six months starting from its termination – shall not exceed five (5) years. It is, however, contrary to the principle of proper legal practice if fixed-duration employment is re-established or extended by the same parties without the presence of legitimate employer interest vested in fixed-term employment, to infringe on the legitimate interest of the employee. If these conditions are present simultaneously and in combination, judicial case law re-classifies the fixed-term employment as one of indefinite duration.

By way of derogation from the general rule, where an employment relationship is subject to official approval, it may only be for the duration specified in the authorization. If the authorization is extended, the duration of the new fixed-duration employment relationship may exceed five (5) years together with the previous employment relationship

The parties may transform a fixed-duration employment contract into an unfixed-duration one with mutual consent. A fixed-duration employment contract shall be considered open-ended without such consent, too, if the employee works for at least one extra day following the expiry of the original term with the knowledge of his/her immediate superior. However, an employment relationship established for a period of thirty days or less shall be extended only by the amount of time for which it was originally established. However, this general rule shall not be applicable in regard of employment based on official approval or on employment with a public aim, on the strength of the law.

The parties may transform by mutual consent a fixed-term contract into one of unfixed duration, although this agreement may be avoidable (according to the sentencing policy of the Supreme Court, there is improper legal practice in the background on the part of the employer).

2.5. Trial period

A trial period may be stipulated under the employment contract, whether of fixed or unfixed duration, upon the establishment of the employment relationship. The duration of the trial period shall be thirty days. A shorter or longer trial period, not to exceed three months, may be stipulated in the collective bargaining agreement, or agreed upon by the parties. The trial period may not be extended. During the trial period either of the parties may terminate the employment relationship with immediate effect, without justification.

2.6. Amendment of the employment contract

Employment contracts may only be amended by the mutual consent of the employer and the employee. The provisions on the conclusion of employment contracts shall be duly applied for the amendment thereof.

In specific cases, the Act prescribes the amendment of the employment contract as the duty of the employer. Hence, for example, the labour wages of the employee shall be corrected after his having been on leave without pay to care for/nurse a child or a close relative, in accordance with the average annual wage development implemented in the meantime for employees in a similar job position and with similar work experience. In the absence of such employees, the extent of the actual average annual wage development implemented at the employer shall be indicative.

Two more cases of mandatory amendment of the employment contract are established by the provisions of the LC: A woman, from the time her pregnancy is established until her child reaches one year of age, shall be temporarily placed in a position suitable for her condition from a medical standpoint, or the working conditions in her existing position shall be modified as appropriate on the basis of a medical report pertaining to employment. The new position shall be designated upon the employee's approval. If the employer is unable to provide a position as appropriate for her medical condition, the woman shall be relieved from work. Employers shall continue to employ employees whose working capabilities have changed in the course of employment in jobs suitable for their condition. If the employee with changed working capability cannot be employed further in his original job, the employer shall amend the employment contract, with the consent of the employee, so that the new job should be appropriate for the state of health of the employee.

It shall not be deemed an amendment of the employment contract when the employee – for reasons in connection with the employer's operations – is ordered by the employer to temporarily work in another position in lieu of or in addition to his/her original position (transfer). The **transfer** of an employee must not result in unreasonable harm in view of the employee's position, qualification, age, health condition or his/her other circumstances. The employee shall be informed of the expected duration of transfer. Unless otherwise stipulated in the collective agreement, the duration of work under transfer shall not exceed forty-four (44) working days in any calendar year. The duration of any number of transfers during a calendar year shall be accounted on the aggregate.

Neither shall it be deemed an amendment of the employment contract when the employee – for reasons in connection with the employer's business interests and upon the employer's instruction – is ordered to temporarily work outside his normal working place as defined under the employment contract. Employment outside the workplace defined under the employment contract may take the form of **posting, temporary assignment (secondment) or lending** (this last legal institution is regulated under Section 150 of the LC, although the Act does not actually use this term). Unless otherwise stipulated in the collective agreement, the aggregate duration of posting, temporary assignment, secondment or labour lending shall not exceed 110 working days in any calendar year.

When the amendment of the employment contract is initiated by the employee – in regard of full-time or part-time employment or the unfixed duration of the employment –, then the employer shall decide on the acceptance of the amendment proposal at his discretion. The employer shall take a decision in view of the work organisation circumstances, his legitimate interests, and the criteria of economical operation and of filling the job. The employer shall inform the employee of his decision within 15 days.

2.7. Change of employer by legal succession

The following shall qualify as change of employer by legal succession: legal succession based on legal regulation, and the agreement-based hand-over/take-over of a separate, organised group of material or non-material resources of the employer (e.g. business unit, plant, outlet, site, workplace or a part of the same) to/by an organisation or person subject to the LC, for the purpose of further operation or re-launch.

In the event the employer is replaced through legal succession, all employment-related rights and obligations in effect on the date of legal succession and, in the event the legal predecessor is terminated by the legal succession, the rights and obligations deriving from the already terminated employment relationship, too, shall be transferred from the predecessor employer to the successor employer at the time of legal succession, and the labour law status of the employees remains unchanged.

The legal predecessor employer shall inform the legal successor employer of these rights and obligations prior to the legal succession. The legal predecessor and legal successor employer shall inform the employee interest representation organisation of the date and reason of the legal succession; its legal, economic and social consequences to the employees and shall initiate consultation on other planned measures of relevance for the employees within 15 days before the legal succession at the latest. The predecessor and the successor employer shall be subject to **joint and several liabilities** for liabilities incurred prior to legal succession, if such claims are enforced within one year of the legal succession**.**

2.8. Cessation and termination of the employment relationship

An employment relationship shall "automatically" cease

- upon the employee's death,
- upon the dissolution of the employer without legal successor,
- upon the expiration of the fixed term,
- if the person of the employer subject to the LC changes due to the fact that the employer is transferred fully or partly to another employer subject to the Act on the Legal Status of Public Employees or the Act on the Legal Status of Civil Servants.

We shall speak of the termination of an employment relationship if employment is terminated on the basis of the unilateral or unanimous intent and legal statement of the parties or as a consequence of their behaviour.

The employment relationship **may be terminated**:

- by the mutual consent of the employer and the employee,
- by ordinary dismissal;
- by extraordinary dismissal;
- with immediate effect during the trial period;
- an employer may terminate the employment relationship of an employee employed for a fixed term by unilateral legal statement; in this case, however, the employee shall be paid one year's average salary, or his average salary for the period remaining if such period is less than one year.

The agreement and the statements regarding the termination of the employment relationship shall be made in writing. No deviation from this provision shall be considered valid.

Termination of employment with mutual consent

The employer and the employee can terminate the employment relationship established between them at any time, by the unanimous expression in writing of their free will, i.e. by **mutual consent.** Their agreement shall expressly declare their common intent to terminate the employment relationship and the date of termination. The law specifies no time limit in regard of this manner of termination: it may take place even during the holiday or earning incapacity of the employee.

Ordinary dismissal

Both the employee and the employer may terminate the employment relationship established for an unfixed term by **ordinary notice**. Unless the notice is put in writing, the legal statement will be ineffective. The dismissal shall come into force when it is handed over the party concerned or to the party entitled to take it over. After notification, the dismissal can only be repealed with the consent of the other party.

The law specifies no restrictive provision in regard of the **ordinary notice of the employee**. That is, the employee may terminate the employment relationship established for an unfixed term by ordinary notice at any time (e.g. even when he is on holiday or sick leave), by written legal statement, without justification.

However, in the event of ordinary notice by the employee – as opposed to the rules applicable to ordinary notice by the employer – , he shall spend the entire notice period at work. The employer, on the other hand, may relieve the employee of work for the entire notice period or a specific part of it. If the employee is relieved from work performance on the basis of the permission of the employer, he shall be entitled to remuneration for working time lost on that account, as specified in their agreement. However, if the employee refuses to work during the notice period, his ordinary notice will be considered illegitimate, and the employer may enforce a claim against the employee on that ground.

In the event of ordinary dismissal, employers must justify their dismissals. The justification shall clearly indicate the specific reason of the dismissal. In the event of a dispute, the employer must prove the authenticity and substantiality of the reason for dismissal. An employee may be dismissed by ordinary dismissal by the employer only for reasons in connection with his/her ability, his/her behaviour in relation to the employment relationship or with the employer's operations. By derogation from the general rule, an employer is not required to explain the ordinary dismissal if the employee has acquired eligibility for old-age pension or receives any kind of pension, with the exception of disability (accident disability) pension.

Under the provisions of the Labour Code, an employee shall be construed as a pensioner
a) if having the service time required to receive old-age pension (entitlement to old-age pension benefits), or if he/she receives
b) old-age benefits before the age limit described in Paragraph a), or
c) old-age pension with age allowance, or
d) advanced (reduced) old-age pension benefits, or
e) a service pension; or
f) early retirement pension, or

g) other pension benefits construed as being the same as old-age benefits, or
h) invalidity (accident-related disability) benefits,

that is, such pension has been established upon his/her request.

Employers shall not exercise or shall exercise in a restricted manner their right to terminate an employment relationship by ordinary dismissal under certain circumstances.

Provisions pertaining to collective redundancy

Until 1 July 1997, the provisions pertaining to collective redundancy were codified under Act IV of 1991 on the Promotion of Employment and Services for the Unemployed (the Employment Act). In conformity with the system of requirements of European law approximation, and with effect from that date, the provisions pertaining to collective redundancy were incorporated into the effective text of the Labour Code. A further reason for this codification arrangement is that the general rules of the termination of employment apply to this legal institution as well.

'Collective redundancy' means when an employer terminates the employment of several employees, their number being defined under the LC, within a relatively short period, by uniform will determination.

Pursuant to the effective provisions of the LC, collective redundancy shall mean when an employer, based on the average statistical workforce for the preceding six-month period, intends to terminate the employment relationship of at least ten workers by employment categories established in a differentiated manner; or at least 10% of all employees, or of at least 30 employees within thirty days, for reasons in connection with its operations.

If the employer has several business sites, the staff number conditions shall apply by site. For business sites, located in the same county (the capital), the number of employees employed at various locations shall be calculated on the aggregate. The employee who works at various places shall be accounted at the location where he/she works in the position registered at the time when the decision on collective redundancy was passed.

Severance pay

An employee shall be entitled to **severance pay** if his employment relationship is terminated by ordinary dismissal or in consequence of the dissolution of the employer without legal succession. Notwithstanding this general rule, the employee shall not be entitled to severance pay if he/she qualifies as a pensioner on the date of the termination of the employment relationship at the latest. Eligibility for severance pay shall be conditional on an employment relationship of at least three years with the employer.

Severance pay shall be the sum of the average earnings of

- one month for at least three years;
- two months for at least five years;
- three months for at least ten years;
- four months for at least fifteen years;
- five months for at least twenty years;
- six months for at least twenty-five years

of employment.

The amount of severance pay shall be increased by three months average earnings if the employee's employment is terminated by ordinary dismissal, within the five-year period preceding his/her eligibility for old age pension. The employee shall not be eligible for a severance pay of an increased amount if he/she has already been provided increased severance pay based on eligibility for old-age pension or old age pension with age allowance.

The collective bargaining agreement or the employment contract may establish more favourable severance pay rates than those defined under the law.

Extraordinary dismissal

Both the employer and the employee may terminate by extraordinary dismissal an employment relationship established for a fixed or indefinite term. Extraordinary dismissal is a unilateral statement addressed to the other party to the employment relationship which terminates the employment relationship without the consent of the other party, with immediate effect or by the deadline following the measure specified under the law. Extraordinary dismissal cannot have retrospective effect, and the consent of the other party is needed for its revocation following notification.

The legal statement pertaining to the unilateral termination of the employment relationship shall be **put in writing**. Failure to fulfil this obligation makes the legal statement invalid, and the employment relationship of the parties shall prevail.

In respect of the **justification** of extraordinary dismissal, the LC rules that the provisions applicable to ordinary dismissal shall duly be applied. In the event of extraordinary dismissal by the employer, if the justification does not allow determining the cause of the immediate termination of the employment relationship, or if the indicated reason is untrue, the unilateral action of the employer shall be unlawful.

An employer or employee may terminate an employment relationship by extraordinary dismissal in the event that the other party

- wilfully or by gross negligence commits a grave violation of any substantive obligations arising from the employment relationship, or
- otherwise engages in conduct rendering further existence of the employment relationship impossible.

Termination of the employment relationship during the trial period

During the trial period, either of the parties may terminate the employment relationship with immediate effect, without justification. The termination of the employment relationship in this manner is not hindered by the employee’s sick leave, earning incapacity, pregnancy, etc. However, the legal statement to the effect of the termination of the employment relationship shall be put in writing also during the trial period.

Termination of fixed-term employment

Pursuant to the general rule under the LC, an employment relationship established for a fixed term shall only be terminated by mutual consent or by extraordinary dismissal or, if a trial

period applies, with immediate effect. Notwithstanding the foregoing, an employer may terminate the employment relationship of an employee employed for a fixed term by unilateral legal statement, too, apart from extraordinary dismissal. In such case, however, the employee shall compensated, that is, paid one year's average salary, or his average salary for the period remaining if such period is less than one year. In this special case, the employment relationship shall be terminated at the date indicated in the unilateral legal statement of the employer, instead of the date specified in the original employment contract.

2.9. Regulations for the performance of work

a) Employer obligations

The LC regulates the main obligations of the employer in relation to the employment relationship in the context of the regulations for the performance of work.

Employment obligations of the employer

On the basis of his employment obligation under the rules of the LC, the employer shall provide work to the employee within the scope of the job, at his place of work, and provide for the conditions of work performance.

The obligations to provide the employee work and employment prevail throughout the employment relationship. In the absence of a contrary agreement between the parties, the employee shall be employed in the job indicated in the employment contract from the day following the conclusion of the employment contract.

If, for a reason having occurred within the scope of his operation (e.g. lack of orders, material shortage etc.) the employer cannot provide work to the employee in accordance with the work schedule and working time applicable to the latter, the employee shall be due his personal base wage for time lost this way, i.e. for the idle time.

If the business circumstances of the employer change temporarily, in economically justified cases, the employee shall perform work without his job or outside his permanent place of work.

If the business circumstances and conditions of the employer change definitely so that he is obliged to carry out restructuring, layoffs, and he has no need for the work performance of the employee any more, the employer shall legitimately exercise his right of ordinary dismissal.

Provision of the conditions of work performance

In the context of the provision of the conditions of work performance, employers shall provide proper **personnel and technical conditions** to ensure occupational safety and health; organize work so as to allow the employees to exercise the rights and fulfil the obligations originating from their employment relationship; provide the employees with the information and guidance necessary for the performance of work; ensure the acquisition of knowledge required for the performance of work.

Employers shall provide for the safety of the place of work and the related equipment and materials, and guarantee occupational health protection of the employees. Employers shall observe the provisions of the Occupational Safety Act (Act XCIII of 1993) and the other legal regulations pertaining to the employment relationship when fulfilling their obligations related to the provisions of the conditions of healthy and safe work performance.

The minimum occupational safety requirements at the workplace are governed by the provisions of Joint Decree No. 3/2002.(II.8.) of the Minister of Social and Family Affairs and the Minister of Health; the safety and occupational health markings to be used at workplaces by Decree No. 2/1998.(I.16.) of the Minister of Labour; and the minimum health and safety requirements of screen-based work by Decree No. 50/1999.(XI.3.) of the Minister of Health.

Employers shall establish the personnel conditions of work performance as part of their obligations. Pursuant to this obligation, employers shall ensure, on the one hand, that only employers suitable physically and possessing the necessary skills for safe work be employed for filling the given job. Pursuant to Decree No. 33/1998.(VI.24.) of the Minister of Welfare, the employer shall have preliminary and, for certain jobs defined by the legal regulation, periodic, personal hygienic and extraordinary physical aptitude tests/examinations made prior to the commencement of the employment.

As part of the implementation of the occupational health and safety requirements, employers shall ensure order and work discipline at the workplace and make an appropriate number of employees with adequate qualification for the performance of each work process.

Work organisation obligation of the employer

Employers shall organise work so as to allow the employees to exercise their rights and fulfil their obligations based on the employment relationship. In addition to the organisation of work, employers shall provide, as part of their obligation to provide guidance, information and guidance necessary for the employee to perform his work. This employer obligation applies not only to the commencement of work by the employee but also in case of new job tasks and throughout the period of the employment relationship. However, neglect of the employer's duty to provide guidance shall not, in itself, exclude the liability of the employee for unprofessional work performance.

Provisions to ensure the employee's acquisition of vocational knowledge and skills

In the longer term, the expansion of the vocational knowledge and skills of the employees is also in the interest of the employer and, moreover, in certain cases, the employer must provide for their acquisition. Work performance shall be ordered in consideration of the qualification of the employee, and especially if new tasks are identified, the employer shall not refuse to provide the information required for performance. As the LC does not define the manner and framework of the expansion of the knowledge and skills of the employees, this may take place in various forms – e.g. training within or without the school system; provision of training materials and aids etc. If the employer obliges the employee to take part in training or further training, the employee shall take part in it and take the prescribed examinations or acquire the qualification concerned. The employer, on the other hand, shall reimburse the employee's costs and wages due for the time lost in connection with training or further training.

Reimbursement of expenses incurred in connection with the employment relationship

Pursuant to the provisions of the LC, employers shall reimburse employees for all necessary and substantiated costs incurred in the course of fulfilling their work-related obligations, as well as for all other required expenses incurred in the employer's interests, if the employer has approved such in advance. These include, for example, the training course fees of an employee obliged to participate in training, and the inevitable travel, catering and accommodation costs connected to training participation.

The employee, however, may incur expenses not necessarily related to the employment relationship, as in the case of using his own tools instead of those of the employer, or providing for his own working clothes or their cleaning etc. Such costs shall be reimbursed by the employer only upon his preliminary consent to such conduct by the employee, and if the costs incurred are deemed necessary. Contribution can be provided individually or under the collective bargaining agreement.

The expenses related to going to work shall be reimbursed in accordance with the provisions of Government Decree No. 78/1993.(V.12.).

b) Employee obligations

The LC defines the main obligations of the employee related to work performance.

Appearance obligation

The employee shall appear at the specified place and time, in a condition fit for work and spend the working hours performing work, or be at the employer's disposal for the purpose of performing work during this time.

In the absence of the agreement of the parties to the contrary, the specified place – the specified place of work performance – shall be the employer’s business site where the employment contract was concluded. Within that, the employer may also specify the concrete place of work of the employee more precisely.

The specified time is the time of the commencement of daily work, depending on the work schedule of the employee, as determined at the employer.

At some workplaces, this time is identical for every employee, but it may also happen that the fulfilment of the various jobs requires different work schedules.

The employee does not fulfil his obligations under the employment contract by appearing at the workplace; it is also necessary for him to perform the tasks in the scope of his job during the working time and to be ready for performing them.

Fitness for work

The employee shall appear at the place of work indicated in the employment contract or in the instruction of the employer, in a condition fit for work. The employee shall fulfil this obligation if he has appropriate physiological capabilities for work, and is in an adequate health, physical and mental state.

The employer is entitled and, under the occupational safety regulations, also obliged to check fitness for work. Besides, the employee is also obliged to inform the employer of any essential circumstances of relevance for fitness for work. If the employee is not in a state fit for work, he shall not be put to work or shall be banned from proceeding with work started already.

Incapacity to work is usually the result of the employee's incapacity to work due to illness or drunkenness. Incapacity to work shall be certified exclusively by the family physician or a by specialist. Consequently, if the employee indicates illness as the reason for non-performance of work, but cannot certify his incapacity to work by providing a medical certificate, his absence shall qualify as unexcused. A drunken employee shall be banned from work and shall not be eligible for remuneration for the period spent out of work.

For employers and jobs where lack of fitness for work represents a hazard to the health of the employee or others, special requirements are to met, which are specified under a further legal regulation.

Work performance requirements

The LC defines the work performance requirements: employees shall perform work with the expected level of professional expertise and diligence, in accordance with the relevant regulations, requirements and instructions. However, the LC does not define the meaning of 'expected level of professional expertise' and 'diligence': the assessment of these criteria shall be based – in line with the established judicial practice – essentially on the capabilities of the employee (vocational qualification, vocational skills, experience), and the standard expectations of the given trade. The absence of these circumstances, however, does not, in itself, relieve the employee of the consequences of unprofessional work performance.

Beyond the above, work performance requirements are subject to the indicative legal regulations and rules issued by the employer, and the party exercising the employer's rights also has extensive instruction right in this area.

Co-operation obligation

The provisions of the LC institute a double co-operation obligation for the employee: the employee shall co-operate with his co-workers and also with the employer to perform work.

The employee is expected to proceed with utmost caution and not endanger his environment while performing his tasks. Furthermore, the employee is also expected to contribute actively in the preservation of the health of his co-workers and in the prevention of any material risks that may threaten them.

Fulfilment of work duties in person

Pursuant to the personal nature of the employment relationship, the employee shall fulfil his work duties in person, and may not, generally, involve another person in the performing the work. Exceptionally, the employee may provide for his own replacement with the consent of the employer.

Work within the scope of the job profile

The profile of the job to be filled by the employee shall be specified by the parties in the employment contract. The job profile describes the tasks to be performed by the employee

without special instruction, as a rule, during the employment. The LC rules that employees shall be obliged to perform also the preparatory and final stages of work connected to their position (e.g. preparation of the materials, restocking, cleaning etc.). Although the scope of these preparatory and final works may be determined under the employment contract or a regulation pertaining to the employment (collective bargaining contract), these activities must be performed even in the absence of a description of this kind.

The employer, on the other hand, shall organise the work so that the employee be able to perform the preparatory and final stages of work connected to the job within the legal working time. If, due to their nature, the activities concerned can only be carried out without the regular working time, the employee shall be entitled to remuneration applicable to the more favourable special work duty for that work.

Confidentiality

Employees may not disclose any industrial (business) secrets obtained in the course of work, nor any information of fundamental importance pertaining to the employer or its activities. Therefore, the employee shall comply with the secrecy requirement during the period of employment – and under certain conditions after its termination as well. Furthermore, employees shall not convey any data learned in connection with the fulfilment of their position to unauthorized persons, the revealing of which would result in detrimental consequences for the employer or other persons. The employer shall decide at his discretion whether to qualify something as industrial secret, and identify the document, data, technical solution or business secret in relation to which the employee must observe the confidentiality requirement.

Confidentiality does not extend to access to data of public interest, or data and information subject to the data supply obligation specified by special legislation.

c) Instruction right of the employer

The LC grants the employer the right of issuing employment instructions as a general rule; the employee shall perform his work in accordance with the legitimate instruction of the employer. The LC contains no direct provision regarding the form of issuing the instruction. The general rule is that statements pertaining to the employment are not subject to any formal requirements. Accordingly, the instruction may be given orally or in writing.

The employer's instruction right is not unlimited: the employer shall only act upon the legitimate instructions of the employer. An instruction given by an unauthorised person or body shall be invalid and, as a general rule, the employee shall not be obliged to act on it. The employer shall tell the employee at the time of the establishment of the employment relationship who or which body shall exercise the employer's rights.

The LC makes it possible for the employee to refuse to act on the instruction in certain cases. The employee shall not be obliged to fulfil an instruction if its implementation would be contrary to a legal regulation or employment-related provision (collective bargaining agreement). Pursuant to the provisions of Act XCIII of 1993 on Occupational Safety, employees shall refuse compliance with a work instruction if it would result in direct and grave risk to his life, health or physical integrity.

The employee shall also refuse compliance with a work instruction if it would result in direct and grave risk to the life, health or physical integrity of others.

If carrying out an instruction could result in damage and the employee is aware of such possibility, he shall point that out to the person issuing the instruction. In such a case however, compliance may not be refused.

Legitimate refusal of compliance with an instruction shall not relieve employees from the responsibility of remaining available for the performance of work and for the fulfilment of legitimate instructions. If an employee does not perform work on account of legitimately refusing to comply with an instruction, such employee shall be entitled to absentee pay for the time lost in consequence

d) Work outside the "normal" place of work

An employment contract is concluded, as agreed by the parties, for work to be performed at a fixed place or at various places. The work obligation of the employee applies only within the scope of the fixed ("normal") place or at the various places of work. Permanent employment without the workplace specified under the employment contract shall only be legitimate following the amendment of the employment contract by common consent.

The normal place of work is usually the seat or business site of the employer, that is, the employer's geographically definable, single site. If, due to the nature of the work, the employee performs work regularly without the business site, the employment contract shall indicate as principal place of work the employer's business site where he receives his instructions.

In the case when work is performed at various locations, from the point of view of the regulations pertaining to places of work, the place of work for which the employer has assigned the employee shall be construed as the employee's place of work.

For economic reasons, the employer may oblige its employee to work temporarily at places other than the normal place of work.

We speak of **posting** if, in addition to the above conditions, the posted employee continues to work under the employer's direction and instructions. The employee who performs work at a place other than the normal place of work due to the nature of the work in question shall not be considered posted.

The posting of an employee must not result in unreasonable harm for the employee. The employee shall be informed of the expected duration of the posting. The duration of work under posting – including the aggregate duration of several postings within one calendar year – shall not exceed, as indicated in the provisions of the Labour Code, forty-four working days in any calendar year. As a general rule, the employee shall be entitled to the remuneration specified under the employment contract for posting. If the place where the employee is posted is in Hungary and if the commuting time falls outside the employee's working hours, the employee shall receive at least 40% of his personal base wage. In addition, the employer shall cover any and all necessary and justified expenses of the employee.

Cost reimbursements related to posting are governed by special legal regulation (Government Decree No. 278/2005. (XII.20.)). Under this legal regulation, the employee on official posting in Hungary shall be entitled to daily subsistence allowance (DSA) for the period of the posting to cover his/her extra costs related to catering – as cost certified by invoice or at a flat rate of min. HUF 500 per diem, without invoice. However, no DSA shall be due to the employee if the period of posting is less than 6 hours, or if the employer provides for meals at the place of posting. For employees subject to regular posting, a monthly flat rate DSA may be determined.

Temporary assignment (secondment) is a special case of employment outside the normal place of work defined in the employment contract. In case of secondment, the employee works under the orders of his employer at another employer, for the benefit and under the direction of the latter. Moreover, an employee may be ordered to perform work on a temporary basis at another employer by virtue of an agreement between the employers concerned (temporary assignment), provided that

a) the owner of the other employer is also the owner – in part or in full – of the employer, or

b) at least one of the two employers holds some percentage of ownership in the other employer, or

c) the two employers are connected through their ownership in a third organization

It is a key component of the concept of "temporary assignment" that no charge is involved. If a charge is involved, we speak of the hiring-out workers. The detailed rules of this latter arrangement are presented in the section on the legal forms of atypical employment. If the employee is employed free of charge at the other employer, but the right to issue orders is retained by the first employer, we speak of posting and not of assignment.

In case of temporary assignment, the employee is entitled, as a general rule, in the absence of a provision to the contrary, to his labour wages specified under the employment contract.

2.10. Study contract

The institution of the study contract allows the employer to meet the staff requirements for skilled experts, and provides the employee more favourable conditions to continue his studies while at work.

An employer may conclude a study contract not only with his own employee, but also with a person not engaged in employment with him. An employee wishing to conclude a study contract with a different employer shall notify his employer thereof. The employer will thus be informed of the fact that he cannot count on the work of the employee in the longer term, because the latter will engage in employment with the contracting partner as part of the fulfilment of his obligations under the prospective study contract.

Under the study contract, the employer undertakes to provide pre-determined support for the duration of studies, while the other party undertakes to complete the studies as agreed and to remain in the employer's employment for a predetermined period of time, max. five years, following graduation.

In some cases, the LC excludes the possibility of concluding a study contract. Thus no study contract may be concluded for being provided benefits which are due anyway on the basis of the effective employment provisions; or if the employer wants to oblige the employee to complete the studies concerned. The reason for these provisions is to protect the party embarking on studies from any disadvantages due to committing himself to something for preferences that would be due to him anyway under the rules of the employment relationship or because the studies concerned would be exclusively in the interest of the employer.

Study contracts must be concluded in writing; they must stipulate the mode and extent of support to be provided by the employer and, furthermore, in proportion to the extent of support, the period of mandatory employment at the employer, which shall not exceed five years starting from the acquisition of the qualification. The parties may specify as an optional element of the study contract the employer's obligation to transfer the graduated employee to a job matching the acquired qualification.

Time-off for studies

Pursuant to the LC, employers shall allow sufficient time off for studies necessary for employees participating in education within the school system. An employee participating in a training program outside the school system shall be entitled to a leave of absence for studies only if so prescribed by an employment-related provision (collective bargaining agreement) or if so stipulated in the study contract.

An employer shall determine the length of time off in accordance with the certificate issued by the educational institution concerning the duration of the compulsory school course and vocational training.

The Act includes the following specification only in regard of the exact duration of time off to be granted by the employer: the employer shall allow four days leave of absence for each exam and a period of ten days leave for the completion of diploma work (subject and grade thesis). The employer shall schedule the time off required for the successful accomplishment of the studies as requested by the employee.

Time off based on working time allowance for the purpose of studies shall qualify as certified absence, but no remuneration shall be due to the employee for time lost this way. The LC provides for a single exception to this rule: employees pursuing elementary school studies shall be entitled to absentee pay as appropriate for the duration of such studies. It is possible, however, to prescribe a payment obligation under the employment-related provision (collective bargaining agreement) or the study contract for pursuing other studies as well.

2.11. Working time and rest periods

Working time

'**Working time**' shall mean a period of time when the employee is obliged and entitled to perform work on the basis of the employment contract. The total working time is the period of time from the commencement until the end of the period prescribed for working, that is to include any preliminary and concluding activities, not including the duration of break-time and other periods not to be included in the working time.

Pursuant to the general rules of the LC, the full and also **the legal work-time** shall be eight hours a day or forty hours a week. Based on employment-related provisions (collective bargaining agreement) or an agreement between the parties, the working time of full-time employment may be increased to not more than twelve hours daily or to maximum of sixty hours weekly. Total working time shall include any preliminary and concluding activities, idle time and the period of the legitimate refusal of the employer's instruction.

On the bases of the general rules the parties may stipulate **full working time** exceeding eight hours a day if the employee is employed – in part or fully – on stand-by/on-call or seasonal duty –, or the employee is the close relative of the employer (or its owner). Stand-by duty means that the employee is obliged to work continuously for a part of the daily working time only – based on the nature of the job or the accepted routine of the given vocation –, or the duration of actual work performance cannot be measured, and does not actually perform work during a significant part of the daily working time.

Shorter hours are specified for full-time work usually under circumstances implying enhanced hazard or danger to health, and time spent on hazardous or dangerous activities within the working time may also be restricted by legal regulation or collective bargaining agreement.

Due to the economic crisis the LC introduced a new regulation concerning working hours for a transitional period of time (1 July 2009 to 31 December 2011). These rules aim at helping employers to adapt to the changes of the economic situation and to facilitate a more flexible organisation of work, and by doing so indirectly help to maintain workplaces.

On the basis of the transitional regulation if the employer and the employee agreed upon shorter working hours from the beginning of 2009, the parties may agree to increase working hours until 31 December 2011. Working hours shall not exceed 44 hours per week.

Employees, whose working hours exceed forty hors per week on the basis of such agreement, shall be granted a protection of notice until 31 December 2011.

Part-time employment means that the employee is employed in shorter hours than the full working time indicative for him, but the parties did not provide for reclassifying shorter working hours as full-time work under the employment contract.

Working time cycle

The working time cycle means the legal working time of the employee over a definite period of time. The working time cycle and the daily work schedule shall be stipulated by the employer or in the collective agreement. The working time cycle is used, usually, due to the nature of the job or the uneven distribution of the work tasks.

In the absence of collective agreement, in compliance with the Directive 2003/88/EC of the European Parliament and Council on organising working time may be defined in cycles of maximum four months or sixteen weeks or, for seasonal work, of maximum four months or sixteen weeks.

Collective agreement or an individual contract (e.g. the case of continuously operating health care services) may determine a working time cycle of a longer period, not exceeding six months or twenty-six weeks, or of a maximum of one year or 52 weeks for employees working in continuous shifts or in alternating shifts, or as seasonal workers, as specified under the LC.

Where applicable, the commencement and termination of the working time cycle shall be determined and communicated to the employee in writing. When calculating the working time, periods of absence (e.g. vacation, legal holiday, other authorised absences), and of incapacity shall be disregarded, or the days concerned shall be taken into account to the extent of the daily working time indicative for the employee.

Work schedule

The **order of work** defines work performance by indicating the commencement and termination of work. The order of work defines the work schedule of the employee or of a unit within the employer organisation, including the commencement and termination of daily

work and the number of shifts, on the basis of the working time cycle. The order of work is defined by collective agreement or, in the absence thereof, by the employer.

Work may be performed at the employer according to a general work order of five work-days a week or one defined in alternating or continuous shifts.

Shift work (work performed in alternating shifts) means any method whereby work is organised in shifts to cover the employer's daily operation exceeding the full working time of the employees, whereby workers succeed each other at the same work stations according to a certain pattern in a day.

At employers operating in alternating shifts, employees may work in morning, afternoon and night shifts (from 6 a.m. to 12 a.m.; 2 p.m. to 10 p.m. and 22 p.m. to 6 a.m., respectively). Multi-shift work may mean more or less shifts than that – in function of the local needs ever. The afternoon and the night shift supplements, however, shall only be due to the employee for the periods defined under the law (from 2 p.m. to 10 p.m. and from 22 p.m. to 6 a.m., respectively), unless determined otherwise by the collective agreement or the agreement of the parties.

Work may be organized in continuous shifts if the employer's operation is suspended for not more than six hours in any calendar day or for the reasons and for the duration required by the technology employed in any calendar year and the employer provides basic public services continuously, or if economic or feasible operation cannot be ensured otherwise for objective and technical reasons.

In case of a **regular work schedule,** the daily working time is identical on every day spent at work.

The Act, however, allows determining the daily working time in a working time cycle **irregularly**, in which case total daily working times of different lengths are defined for the workdays. For the sake of the protection of the employee, the LC defines the minimum and maximum daily working time applicable to irregular work schedules. Accordingly, the minimum is 4 hours a day. In case of part-time employment, exceptionally, if the parties agree so, the daily working time may be shorter than 4 hours. The weekly working time cannot exceed sixty hours for those who work for health care services that provide continuous service, or seventy-two hours in case of health care night duties. With the exception of partly or fully stand-by-type duty, the daily working time may not be longer than 12 hours, because the irregular work schedule may not imply a disproportionately high workload for the employee.

Rest periods

The rest period is the period for which the employee is relieved from work, based on his employment contract, in order to be able to rest. The LC specifies fives types of rest periods: break-time, daily rest period, weekly rest period, legal holiday and vacation.

Break from work

Break from work is time available during daily work for meals, for making one’s toilet or for a short rest.

If the scheduled daily working time or the duration of special work duty exceeds six hours, and after each additional three-hour period, the employee shall be entitled to a minimum twenty-minute break from work. The collective bargaining agreement or the agreement of the parties, however, may specify a longer break, too (not exceeding one hour). If the employee is entitled to several breaks a day, their aggregate duration shall not exceed one hour.

The daily rest period

The **daily rest period** is the consecutive period of rest between the termination of the daily work of the employee and its commencement on the following day.

Pursuant to the LC, employees shall be afforded at least eleven hours of **resting time** after the conclusion of daily work and before the beginning of the next day's work, in the case of activities involving periods of work split up over the day, the LC provides at least eight hours of resting time for the employees. In case the duty did not involve actual work employees are not entitled to a period of rest after their duty.

At least eight hours of resting time may be prescribed by collective agreement for employees working in stand-by duty, continuous shifts or alternating shifts, and for seasonal workers, but at least 8 hours of rest shall be provided in these cases as well.

If the employer cannot provide for the daily rest period – e.g. due to special work duty –, the employee shall only be obliged to work on the following day only from a time which ensures his access to daily rest.

Weekly rest

Pursuant to the interpretative provisions of the LC, **'rest day'** shall mean any period between midnight and 12 p. m. of a calendar day, or – unless otherwise prescribed by employment-related regulation or otherwise agreed by the parties concerned – a period of twenty-four consecutive hours preceding the next shift for workers working under a three- or four-shift work schedule or at employers operating non-stop. The weekly rest day is meant to separate two work weeks, to ensure that the employee have a rest.

Employees employed under the general work order of five days a week shall be entitled to two resting days each week, one of which shall be a Sunday.

Work on Sundays

The LC imposes strict conditions on performing **work on Sunday** for employees employed in regular working hours. Accordingly, work on Sunday in regular working hours shall be allowed only if the employer generally operates on Sundays by the nature of its business, or for employees working in stand-by duty, continuous shifts, alternating shifts or for seasonal workers and for employees working under a working time cycle.

Pursuant to the conditions specified under the provisions of the LC, an employee who works on Sunday must not be required to work on the preceding Saturday

Unless otherwise stipulated in the collective bargaining agreement, the employee shall be entitled to one resting day or 48 hours of rest after uninterrupted work for six consecutive days.

Legal holidays

As a general rule, the LC relieves the employee of the obligation to work on **legal holidays.**
The legal holidays specified under the Act are 1 January, 15 March, Easter Monday, 1 May, Whitsun Monday, 20 August, 23 October, 1 November and 25-26 December. These days are crucial dates of Hungarian history and religious life or of such events considered universal cultural holidays as justify the institution of a general (legal) holiday on that day. Employees may be required to work on legal holidays only if the employer operates in continuous shifts or if the employer operates on such days by the nature of its business, or if they provide service to locations abroad, or with information technology devices, or in case of missions abroad. (Measures concerning the legal holidays in 2010 are included in the 20/2009. (28 September) Regulation of the Ministry of Social Affairs and Labour.

Special work duty

The work order and work schedule introduced by the employer determines the normal order of operation. The employer shall organise operation so as to accomplish every task during regular working hours. In certain unpredictable situations, however, it may happen that the employer cannot accomplish everything unless he obliges his employees to work beyond the normal working time. Special work duty must not be required if it imposes any danger to the physical integrity or health of the employee, or if it constitutes any unreasonable hardship to the employee in respect of his/her personal, family or other conditions.
Special work duty shall be ordered by the employer, either orally or in writing. It must be ordered in writing if so requested by the provisions of the collective agreement or the agreement of the parties or by the employee himself.

Stand-by and on-call duty

On-call duty means a period of time when the employee must be ready to work at a specific place and for a specified time, upon the order of the employer, outside his scheduled working hours, or over and above the working time cycle. The place of work may be determined by the employer. Given the nature of the tasks within the scope of on-call duty, taking a longer period into consideration, no work is performed in at least one third of the working time, or it implies a much smaller workload for the employee than the average. If the employer orders work during on-call duty, then we shall speak no longer of on-call duty but of special work duty, and that will be subject to the relevant provisions.

Stand-by duty means a period of time when the employee must be ready to work at a place and for a time specified by the employer, outside his scheduled working hours, or over and above the working time cycle. The total period of the stand-by duty, i.e. of being available for work, shall be regarded, in line with the judgements of the Court of Europe – as working time for the purpose of the allocation of the weekly working time. Work performed during stand-by duty on the order of the employer shall qualify as special work duty and be subject to the relevant regulations.

Different provisions pertaining to young employees

In line with Council Directive 94/33/EC on the Protection of Young People at Work, the LC contains special provisions in regard of the working time and the rest periods of members of this group.

Accordingly, the working time of young people (ages 15 to 18) must not exceed eight hours daily or forty hours on the average of the weekly cycle. If the young employee works for several employees, the total time spent at work shall be accounted on the aggregate.

Any young person whose working time is over four and half hours daily shall be entitled to a break of at least thirty minutes. The daily resting period shall be at least twelve hours for young persons, and the weekly rest period may be any two consecutive days.

Young persons shall not work at night, on special work duty or on stand-by/on-call duty.

Vacation time

Employees shall be entitled to vacation time for each calendar year spent in employment.

Pursuant to the provisions of the LC, the vacation time due to the employees has the following types: normal vacation time (comprised of basic and extra vacation), unpaid leave or sick leave.

Vacation time comprises basic and extra vacation. The extent of the **basic vacation** is determined by the LC on the basis of the age of the employee, not the service period (time spent in work). The amount of basic vacation time shall be twenty working days, and will increase, with the progress of the age of the employee, continuously, to a maximum of 30 working days. (The basic vacation time will be 21 working days when the employee reaches the age of 25. This increases by one working day every third year until the age of 31, and by one working day every other year from the age of 31 to 44.)

Employees shall be first entitled to extended vacation time in the year when reaching the age specified under the Act. An employee, whose employment relationship commenced during the year, shall be entitled to a commensurate portion of vacation time for such year.

Extra vacation supplements the basic vacation as indicated under the LC, the collective bargaining agreement or the employment contract. Extra vacation specified under the Act may be due under the title of age, child-raising, disability, or hazard to health. Accordingly, extra vacation is due to young persons, women, to single parents depending on the number and age of children, blind employees, and persons working underground or at a workplace exposed to ionising radiation. Extra vacation due to the employee may be granted under several titles simultaneously.

Employees **under the legal age** shall be entitled to five extra days of vacation time each year. The last time such benefit applies shall be the year when the young person reaches eighteen years of age.

The employee assuming the greater role in **raising a child** according to the parents' decision, as well as single parents shall be entitled to extra vacation time amounting to two days a year for one child, four days a year for two children, a total of seven days a year for more than two children under sixteen years of age. In respect of extra vacation time, a child shall first be taken into consideration in the year of his birth and for the last time in the year in which he/she reaches the age of sixteen. The parents may decide freely which one among them would use the extra vacation under the title of child-raising. The employer, however, is

entitled to make the employee make a written statement concerning the use of the child-raising vacation time.

Visually impaired employees are entitled to 5 extra days of vacation each year.

Employees permanently working **underground** or spending at least three hours a day on a job **subject to ionizing radiation** shall be entitled to five extra days of vacation each year. A collective bargaining agreement or an employment contract may stipulate **additional extra vacation time** above and beyond those specified under the Act.

Vacation time shall be scheduled by the employer following advance discussion with the employee, taking into account the justified requests of the employee as far as possible.

As a general rule, vacation time shall be allocated in the year in which it is due. Vacation time may only be broken up into more than two periods at the employee's request.

Sick leave

Sick leave is due to the employee each year for the duration of time during which he is incapacitated to work due illness. Incapacity to work shall be certified by a physician.

Employees shall be entitled to fifteen days of sick leave per calendar year for the duration of time during which they are incapacitated to work due illness, not including accidents at work and occupational diseases as specified by social insurance provisions. In respect of employment relationships beginning during the year, employees shall be entitled to a portion of sick leave commensurate to the calendar year. However, if the employee has already been employed in the course of the year, such portion shall not be more than the unused fraction of the sick leave for the calendar year in question. The portion of sick leave not used during the calendar year may not be claimed subsequently.

Leave without pay

The employee may have personal or family obligations necessitating absence from the workplace. Leave without pay is meant to allow the employee to solve such problems without having to use his regular rest periods for his purpose.

Unpaid leave is generally not due to the employee on citizen' right; it may be granted upon special request, at the discretion of the employer.

In some cases, it would be unjustified to assign the approval of the leave or the granting of certain working time allowances to the discretionary powers of the employer. Therefore, in cases specified by the LC – based on health and social criteria – the employer shall be obliged to grant the employee working time allowance or leave without pay upon the employee's request.

The employee shall be entitled to leave without pay

a) in order to provide **home care for the child** until the child reaches the age of three;

b) in order to care for the child until the child reaches the age of ten, if the employee receives a child-care allowance and provides **home care** to the child ;

c) in order – in the event of the child's illness – to provide **home nursing care** until the child reaches the age of twelve.

Other working time allowances

The employer shall grant the employee, upon the latter's request, working time allowance in addition to or instead of leave without pay in the events specified by the LC.

Women in the pregnancy period or giving birth shall be entitled to twenty-four weeks of **confinement leave**. Such leave shall be scheduled so as to commence four weeks prior to the expected time of birth if possible. Under the relevant social security legal regulations, child-care fee or, under a special legal regulation, child-care aid shall be due for the period of this leave. If the mother does not request child-care leave without pay or requests a part of it only, during the first six months of nursing, she shall be entitled to two hours of work-time allowance each day, and one hour daily thereafter up to the end of the ninth month.

The **father** shall be entitled to working time allowance of five working days upon the birth of the child, which shall be granted by the employer at the date according to his request, and no later than the end of the second month following the birth. Absentee pay shall be due for the duration of the working time allowance. Absentee pay payable to the employee for the duration of the working time allowance shall be refunded to the employer – based on a separate legal regulation – by the central budget.

The employer may decide at his discretion whether to grant the employee **further working time allowances** (e.g. extra paid or unpaid leave) in addition to the cases listed under the LC.

2.12. Remuneration for work

Wages

It is an essential content element of the employment relationship that work is performed for remuneration, i.e. for wages. The LC does not define the **concept of wages** precisely, and it does not define its elements either, but it established the basic rules –important as guarantees from the employee's point of view – of remuneration for work. (For the purposes of the LC, "wage" shall mean any remuneration provided to the employee directly or indirectly in cash or in kind, in the form of social benefits, based on his/her employment.)

The specification of the **personal base wage** is a necessary content element of the employment contract. The personal base wage of the employee receiving hourly remuneration is the specified personal hourly wage; for the employee receiving daily remuneration, it is the specified daily wage and for an employee receiving monthly remuneration, it is the specified monthly wage.

The wage payable to an employee shall be established on the basis of time or performance, or a combination of the two.

For wages determined on the basis of time, remuneration shall be established on the basis of the duration of work, for a time unit (e.g. hour, month). It is usually not mandatory to apply time-based wages, except for the personal base wages which shall be determined as time wages. The extent of the time wages shall be determined by the parties at their discretion, with the proviso that the personal base wage shall not be less – in case of full-time employment – than the mandatory minimum wages ever.

If performance-based wages are applied, remuneration shall be adjusted to the effectiveness of work. The relevant performance requirement and other performance wage factors shall be determined by the employer in advance, on the basis of objective measurement and calculation. The performance requirement and other performance wage factors shall be determined by the employer so as to ensure that the required performance be achievable in 100% during regular working hours.

Wage supplement

Wage supplement may be established if the employee works at a special place, under unfavourable conditions, or outside the normal working time cycle, and these circumstances have not been taken into account in the performance requirements.

Unless otherwise agreed, the wage supplement shall be calculated on the basis of the personal base wage of the employee. Under the LC, the employee may be entitled to the following wage supplements: night work supplement, shift supplement, supplement due for special work duty and resting day supplement. The collective bargaining agreement or the agreement concluded by the parties may specify also other supplements in addition to these.

Employees shall be paid a fifteen per cent wage supplement for working **night shift** (i.e. from 10 p.m. to 6 a.m.)**.**

Employees working in alternating shifts or in uninterrupted (continuous) shifts shall be entitled to an afternoon or night **shift supplement.** The rate of supplement for work in afternoon shifts shall be fifteen per cent, and thirty per cent for work in night shifts. Employees working in continuous shifts shall be entitled to an additional five per cent shift supplement (i.e. 20% altogether) for afternoon shifts, and an additional ten per cent shift supplement (30%) for night shifts. (Pursuant to the definition of work in shifts, the afternoon shift lasts from 2 p.m. to 10 p.m. and the night shift from 10 p.m. to 6 a.m.)

Special work duty means that the employee works in excess of the daily working time as specified under the working time schedule, in excess of the working time cycle, or during on-call or stand-by duty. The employee is usually entitled to 50% wage supplement in addition to the wages for special work duty. Employment-related provisions or an agreement between the parties may stipulate the provision of time off in lieu of a wage supplement; the time off shall not be less than the duration of the work performed.

On-call duty means a period of time when the employee must be ready to work at a specific place and for a specified time, upon the order of the employer, outside his scheduled working hours, or over and above the working time cycle. The place of work may be determined by the employer and its time by the employee.

The employee is entitled to wages corresponding to 20% of his personal base wages for the time of stand-by duty.

Work performed during stand-by duty on the order of the employer shall qualify as special work duty and be subject to the regulations governing the remuneration of special work duty.

Stand-by duty means a period of time when the employee must be ready to work at a place and for a time specified by the employer, outside his scheduled working hours, or over and above the working time cycle.

The employee is entitled to wages corresponding to 40% of his personal base wages for the time of on-call duty

Work performed during on-call duty on the order of the employer shall qualify as special work duty and be subject to the regulations governing the remuneration of special work duty.

The employer may determine flat-rate payment to remunerate stand-by and on-call duty.

Legal holiday supplement

For work performed on a legal holiday as a normal course, employees paid monthly shall be remunerated as is due for work on legal holidays in addition to their monthly wages. For special work duty on legal holidays, the employee shall be entitled to the monthly wages as remuneration and to the wage due for work performed on a legal holiday and a 100% wage supplement. If the employee is provided rest time for work performed on a legal holiday, the wage supplement shall be 50%.

If the employer orders an employee paid on the basis of performance or by the hour to perform work on a legal holiday, the employee shall be entitled to the monthly wages and, in addition, to wages due for work on a legal holiday and the absentee fee.

Sunday supplement

The employee is entitled to 50% wage supplement in addition to the normal wages for work on Sunday in regular working hours, if such work takes place in a work order of three or more shifts or as a result of the aggregation of the rest days.

However, no supplement shall be due to a person employed in uninterrupted shifts, by an employer operating on Sundays, too, as a rule, or employed part-time, exclusively on Saturday and Sunday, on the basis of the agreement of the parties or to an employee doing seasonal work.

Work at another employer

On the basis of the Labour Code, the employee may have to work at another employer in three cases – temporary assignment, hiring-out of labour and – according to Section 150 of the LC – labour loaning (although the LC does not use the term “loaning”).

In addition to the cases of temporary assignment and hiring-out, an employee may be required to work at another employer, if his/her employer is temporarily unable to provide employment as contracted due to technical problems in its operations. This type of employment is characterised by the fact that the employee works on the basis of the agreement of the employers specifying no remuneration, under the direction of the employer competent by place of work, and as for the rights and obligations associated with work performance, the rules of temporary assignment shall be duly observed.

Remuneration of time not spent in work

Normally, the employee is entitled to wages for work performed under the employment relationship. Exceptionally, however, if so prescribed by employment-related provisions, the employee's wage shall be supplemented to his absentee pay or, if no work is done, absentee pay shall be paid.

Absentee fee

Pursuant to the rules of the LC, employees shall be paid absentee pay:

- for the duration of performing civil duties;
- upon the death of a close relative, for at least two working days per occurrence;
- for the entire duration of compulsory medical examination or blood donation;
- for the time lost because of an official holiday;
- for the duration of vacation time;
- for the duration of the work-time allowance for nursing an infant;
- for the duration of being relieved from work as specified by employment-related provisions.

If an employee is relieved from work on the basis of the employer's permission, remuneration for work time lost thereby shall be paid in accordance with their agreement.

Absentee fee shall be calculated on the basis of the following wage components:

- personal base wage in effect during the period of absence,
- regular wage supplements, and
- the so-called extra supplement due for special work duty.

Remuneration of idle time

Idle time means the period when an employee is unable to work due to reasons attributable to the employer’s operation. Such employee shall be entitled to his/her personal base wage for the work time lost (idle time).

Average wage

Average wage shall be calculated if the employment-related provision or the agreement of the parties prescribes the payment of average wage or remuneration adjusted to that to the employee.

If an employee's remuneration is established as an average wage, it is to be calculated on the basis of the commensurate wages paid for the relevant period (hereinafter referred to as "normative period").

The average wage shall be calculated on the basis of the wages paid for the last four calendar quarters. If the period of an employee's employment is less than the four calendar quarters, the average wage of such employee shall be calculated on the basis of the wages paid for the relevant calendar quarter(s), or for the last calendar month(s), as appropriate. If an employee has been employed for a period of less than one calendar month, the average wage of such employee shall be the same as the absentee pay.

Reimbursement of costs

Employees may incur various expenses in relation to the employment relationship. Employers shall reimburse employees for all necessary and substantiated costs incurred in the course of fulfilling their work-related obligations, as well as for all other required expenses incurred in the employer's interests, if the employer has approved such expenses in advance. In general, the employer shall not be obliged to reimburse other costs.

Costs of commuting to work shall be reimbursed as prescribed in a separate legal regulation.

Reimbursement of costs of commuting to work

The rules applicable to the reimbursement of costs of commuting to work are specified under Government Order No. **78/1993.(V.12.) Korm.**

Pursuant to this legal regulation, the employer may reimburse the employee's costs of commuting to work (daily commuting to work and back home outside the city limits).

Regular travel between the permanent or temporary place of residence and workplace of the employee on a daily basis or as frequently as required by the work order shall qualify as daily commuting to work.

The employer shall reimburse the 80% of costs of the season pass or full-price ticket of the employee in case of travel by suburban railway or local or distance bus operating under intercity tariffs. If travel takes place by 2nd class national public railways transport, the employee shall reimburse 86% of costs of the pass or the full-price ticket.

If no public transport vehicle is available between the permanent or temporary place of residence and the workplace of the employee, or if his work implies an excessive waiting time or no access to such transport, cost reimbursement is due for commuting to work by own vehicle as indicated under the provisions of the Act on Private Income Tax.

Social benefits

Employers may support the fulfilment of the employees' **cultural, welfare and health care** needs, and the improvement of their living standards, based on collective bargaining agreement, or at their own discretion. The LC, however, does not define the circle of these benefits. The fringe benefits provided for this purpose shall be set forth in the collective agreement; however, employers may also provide additional support to employees. The most frequent benefits are the following: canteen meal or meal contribution, contribution to accommodation at workers' hostel or room rental, holidays, support for sports facilities, support for housing (construction or purchase), health benefits etc.

If any work results in extensive soiling or wear of clothing, the employer shall provide the employee with **work clothes**.

If the nature of the work is such, the employer may provide for wearing a uniform or a livery. The jobs giving entitlement to uniform/livery shall be specified under the collective bargaining agreement or some other employment-related provision (e.g. employers' regulations).

The employer may assume the **membership fee payment liability, in full or in part, of an employee** who is member of a voluntary mutual insurance fund (employer contribution). The detailed rules of the payment of the employer contribution are contained in Act CXVI of 1993 on Voluntary Mutual Insurance Funds. In regard of the enforcement of any claims related to the employer contribution, the rules applicable to labour disputes shall be indicative.

2.13. Employees' liability for damages

Employees shall be subject to liability for any and all damages caused by violation of employment-related obligations.

The LC makes the establishment of the employee's liability conditional on meeting the following criteria, simultaneously:

- violation of employment-related obligation,
- liability of the employee,
- the occurrence of damage, as well as the causal correlation with the violation of obligations.

Employers shall be required to prove the liability of employees, the occurrence and the amount of damage, as well as the causal correlation.

2.14. Employers' liability for damages

Pursuant to the LC, employers shall be subject to full (so-called objective) liability for damages caused to employees in connection with their employment, regardless of accountability. The employee shall be required to prove that the damage has occurred in a causal connection with his employment.

In derogation from the general rule, a private individual employer employing a maximum of ten full-time employees shall be liable for damages caused to the employee by negligence.

2.15. Labour-related legal disputes

Labour-related legal disputes (labour disputes) mean employment-related legal action filed for the enforcement of employment-related claims, or for the enforcement of claims ensured by this Act, the collective bargaining agreement or operative agreement, by employees or trade unions and workers' councils (employee representatives), respectively.

The subject matter of the labour dispute may be to seek remedy to the unlawful measure of omission of the employer in regard of the employment, or the assertion of claims concerning the employment or the collective rights. No legal dispute shall be launched against a decision adopted by the employer within its right of deliberation, except if the deliberation of the employer has violated the provisions, developed by itself, pertaining to such decisions.

Employment-related legal disputes shall be decided in court. Labour courts (industrial tribunals) operate in each county and in the capital. The statement of claim shall be submitted to the labour court competent by the seat of the employer.

3. Atypical employment relationships

The previous chapter discussed the provisions applicable to the "traditional" or "classical" forms of employment, contained essentially in the Labour Code and in part in other legal regulations. This chapter presents the so-called atypical employment relationships governed to a minor extent by the provisions of the Labour Code (distance working, labour hiring), and to a major extent by separate legal regulations.

3.1. Outworking

The employment of outworkers (also called contract workers) is governed by the provisions of Government Decree No. 24/1994. (11.25.) Korm.

In addition to the provisions of the said decree, the general provisions of the Labour Code shall also be applied with respect to the liability for damages of the employee and the employee, the labour disputes and the allocation of vacation time.

The outworker legal relationship is established for the purpose of performing a special work task individually, if the relevant performance requirements can be specified in the form of a output standards or other quality or quantity indicators.

The parties to the outworker relationship are the employer and the employee. The employer shall have legal capacity. The outworker shall be a natural person allowed to engage in employment pursuant to the provisions of the LC.

3.2. Hiring-out of labour

The hiring-out of workers between employers has become an ever more frequent employment form since the early 1990s. It was not codified at the level of the legislation until 2002; employment under this form used to be implemented in accordance with the temporary assignment provisions of the Labour Code. The law-level regulation of the hiring-out of workers has become possible with the amendment of the Labour Code in 2002. Since the hiring-out of workers is a special form of employment, the relevant provisions are included under a new chapter of the LC.

3.3. Teleworking

Teleworking (or: distance working) was regulated under the law in 2004, by inserting – as in the case of the hiring-out of labour – a new chapter in the LC.

For the purposes of this Act 'person employed in teleworking' shall mean a worker engaged in activities on a regular basis within the employer's regular profile of operations at a place of his choice, other than the employer's facilities, using computers and other means of information technology and delivering the product of his work through electronic means.

In addition to the general conditions, in the employment contract for teleworking, the parties shall stipulate the following: the fact that the employment aims at teleworking; the terms of communication; and the terms for the settlement of costs.

Unless there is an agreement to the contrary, it is the employer's responsibility to provide the equipment necessary for work and for communication

The distance worker employee shall be entitled to define his work schedule and working time allocation at his discretion, unless there is an agreement to the contrary.

In a justified case, the employer may check the fulfilment of the employment obligations of the teleworker.

3.4. Employment with the "occasional employment book" (OEB)

Employment with the occasional employment book is a special form. The provisions of employment with OEB and the order of payment of the related public burdens are governed by Act LXXIV of 1997 on Occasional Employment, in effect as of 1 September 1997. Employment with OEB has the advantage that the employer may have casual work tasks performed under much "softer" formal and administrative conditions than those under the Labour Code, and public burdens payable on employment may be settled in a simplified manner.

Occasional (also called casual) employment is usually governed by the provisions of the LC, with certain deviations specified under a special act. If the employer violates the provisions applicable to occasional employment, the general labour law, social security and tax administration provisions shall be regarded as indicative.

Occasional employment may be established with an employee having a – "blue" or "green" – occasional employment book. The OEB is a public document issued for the purpose of registration of casual employment. Records in the OEB shall be made apart from the signature of the employee – exclusively by the issuing PES centre or the employer.

The following may be employed with the "blue" OEB:

- a natural person who may be an employee under the LC, except for persons employed under an employment relationship established for the purpose of hiring-out labour,
- a foreign citizen subject to day-time student or student legal relationship established with a vocational training school, secondary school, basic-level arts education institution, or higher education institution operating in Hungary,
- a foreign person who may be employed without permit pursuant to the provisions of the Employment Act (Act IV of 1991), and
- a foreign person who is the spouse of a Hungarian citizen, residing in Hungary, or the widow(er) of a Hungarian citizen who used to live together with the deceased spouse at least for one year in Hungary prior to the death of the latter.

The following may be employed with the "green" OEB, without permit:

- foreign citizens employable in Hungary otherwise with permit, employed in seasonal work in agriculture (especially plant cultivation, animal husbandry, fishing).

To the legal entity of the employer the regulations of the Labour Code are applicable.

According to the general rules, in a calendar year an employee is allowed to spend 120 days employed by the same employer in occasional employment.

4. Other labour regulations

This chapter presents legal regulations and legal institutions containing other provisions governing the entitlements and obligations of the parties to the employment relationship in addition to the rules under the Labour Code.

4.1. Notification obligation of the employer in relation to the employment relationship

The Uniform Hungarian Employment Database (EMMA), installed within the Public Employment Service, started operation on 01 May 2004, the date of the accession to the European Union of the Republic of Hungary, in order to promote the fulfilment of the statistical data supply obligation based on the EU legislation, the assertion of the right of self-determination in regard of employment-related information, and to enhance the efficiency of labour inspection.

The standards applicable to the notification and registration obligations related to the Uniform Hungarian Employment Database (hereinafter: EMMA) were subject until 31 December 2006 to the Employment Act, and to Government Decree No. 67/2004.(IV.15.) Korm., and Decree No. 18/2004. (IV.25.) of the Minister of Employment Policy and Labour on its implementation

EMMA, operated at the National Employment and Social Office (NESO), comprises the employment data specified by legal regulation within the scope of the Employment Code, with the exception of employment under the occasional employment book.

Owing to the changes of the employment and taxation legislation, the operation of EMMA within the framework of NESO came to an end on 1 January 2007. As of that date, employer must fulfil their notification obligation under the legislation in regard of the establishment and termination of employment relationships and other data specified by legal regulation to the first-level public taxation authority (APEH regional directorate) electronically, on the form dedicated to this purpose.

(Act LXI of 2006 on the Amendment of Certain Financial Acts provides for the repeal of the provisions of Act IV of 1991, the Employment Act, and for the insertion of the new rules applicable s of 1 January 2007 into Act XCII of 2003 on the Order of Taxation.)

Pursuant to the provisions of Act XCII of 2003 on the order of taxation (Art.), in effect as of 1 January 2007, employers (including private individual employers not classified as individual entrepreneurs) must report electronically no later than the 12th day of the month following the reference month on tax and contribution payment data and other data on payments and benefits to private persons, specified by law, resulting in tax and/or social security payment liability, respective of the reporting frequency applicable to them, on a monthly basis.

This monthly notification obligation of the employer shall cover – in derogation of the former regulations applicable to EMMA – also data related to the employment of persons with occasional employment book (OEB) in the reference month.

4.2. Labour inspection

Act LXXV of 1996 on Labour Inspection specifies the subject matter of the administrative inspection, its personnel and organisational specifics, the order of procedure and the legal consequences of non-fulfilment of the said obligations.

First-level labour inspection is carried out by the labour inspectors of the territorial labour inspectorates (labour authorities) of the Hungarian Labour Inspectorate (OMMF).

5. Regulations for employment abroad

5.1. Rules for employment of foreigners in Hungary

The rules for licensing the employment of foreigners in Hungary are laid down in the Employment Act (Act IV of 1991), Decree No. 8/1999 (XI. 10) SzCsM of the Minister of Social and Family Affairs on licensing the employment of foreigners in Hungary, Government Decree No. 93/2004 (IV.27) Korm. After Hungary'a admission to the European Union different rules for employment apply to the citizens and their relatives coming from EEA countries and to citizens coming from non EEA countries.

In terms of the conditions of employment with work permit, foreign citizens may be divided into three groups in Hungary:

- **I.** work permit is required based on the **general rules**,
- **II.** work permit is required, but the it is issued **without the evaluation of any labour market criteria**,
- **III.** no work permit required **(work permit exemption)**.

I. Citizens subject to work permit as a general rule

I.1. Citizens of third countries

Pursuant to the effective legal regulations, as a **general rule**, with the exception specified by legislation, citizens of third countries may only take employment in Hungary if they possess a **permit**. Citizens are considered as member of third countries if they are not citizens of any of the countries of the European Economic Area.

For these citizens the **establishment of any employment contract** falling within the scope of the Hungarian legislation requires a permit, in which the subject matter of the service is work performed for remuneration by a foreign natural person for a resident employer, including also any employment of foreigners in the framework of training (job training) aimed at acquiring skills required for the performance of specific jobs, and placement of foreign employees based on their employment contract with foreign employers for the purpose of performing a contract concluded with a resident employer under the provisions of the private law.

Any contract for establishing employment subject to a licence may only be signed after the license has been obtained and only for the term specified therein.

II. Citizens subject to work permit, but the permit is issued without the examination of labour market situations

II.1. Citizens coming from third countries and subject to work permit

In the cases listed in the Government Decree and in case the conditions are fulfilled, the work permit is to be issued without the examination of the labour market situations and not as a general rule, otherwise the employment of citizens coming from third countries is subject to work permit in Hungary.

II.2. The employment of citizens and their relatives coming from EEA countries subject to work permit

Pursuant to Government Decree but unlike stated in the general rules for EEA citizens the employment of
-Austrian, Liechtenstein, German and Swiss citizens,
-Danish, Belgian and Norwegian citizens,
-Bulgarian and Romanian citizens
and their relatives is subject to work permit in case of those activities which require no vocational certificate and are listed in the annex of the decree, but the permit is issued without the examination of labour market situations.

III. Citizens not subject to work permit

III.1. Citizens of third countries

Foreign sole traders (individual entrepreneurs) and foreign citizens holding an agricultural producer's certificate do not require an employment permit, as they employ themselves without creating an employment contract.

Pursuant to the provisions of the Employment Act, no employment permit is required, regardless of nationality, in order to work in Hungary for

- people recognised as refugees or asylum seekers,
- people with an immigrant or resident status, and
- people possessing the right to move and reside freely.

In addition to the list contained in the Act, the ministerial decree contains a longer list of cases of **permit-exempt employment**. According to the list, there is no need for an employment permit in the following cases:

- employment based on the applicable provisions of an international treaty,
- employment of managers of branches and PES offices of corporations having their registered seats abroad,
- employment of diplomatic or consular representation staff of foreign states, and their close relatives,
- employment of foreigners working at international organisations or agencies established under international treaties, delegated by the signatories to the treaty, and their close relatives,
- for commissioning, warranty, servicing and guarantee activities performed on the basis of any contract with a foreign corporation under the provisions of the private

law, providing that the period of work is not longer than 15 consecutive days on each occasion,

- for the employment of executive officers and members of supervisory boards of corporations with foreign participations,
- for work performed based on applications for post-doctoral employment,
- employment of foreigners having study contracts with foreign higher education institutions within the framework of professional practice organised by an international student organisation,
- employment of foreigners possessing study contracts and studying on day-time courses in vocational training schools, secondary schools, basic-level art education institutions, higher education institutions in Hungary, during the effective term of their contracts,
- teaching activities of foreigners in primary, secondary and higher education institutions, in foreign languages (foreign language teachers) within the framework of international educational programmes signed by the competent ministers of the states concerned, and certified by the Ministry of Education,
- Activities of foreigners in a church registered in Hungary or in their institutions, performing religious services as their career,
- work performed by individuals applying for refugee or asylum seeker status in Hungary and work performed by accepted refugees in refugee stations,
- educational, scientific or artistic activities of internationally recognised foreign individuals, invited by higher education institutions, scientific research institutes and public education institutions, for no more than 5 working days in a calendar year,
- educational, scientific or artistic activities of foreigners for no more than 5 working days in a calendar year,
- work performed by foreign researchers in Hungary, if the researcher performs activities that fall within the scope of an agreement established between the Republic of Hungary and another state and this is certified by the Hungarian Academy of Sciences.
- employment of foreigners on trade practice within the framework of the Leonardo da Vinci programme,
- work performed by marital partners of Hungarian citizens cohabiting in Hungary, and work performed by widows/widowers of the same who cohabited with the deceased marital partner in Hungary for at least one year before his/her death.
- work performed by foreign citizens with a ‘green’ occasional employment book pursuant to the provisions of Act LXXIV of 1997, for no longer than 60 days in a calendar year.
- work performed in Hungary by foreigners employed by foreign corporations working pursuant to the provisions of the agreement on the free flow of services, providing services on behalf of their employers, in the framework of posting, temporary assignment or as hired employees,
- research activities in Hungary of researchers, performed pursuant to the provisions of a hosting agreement concluded with an accredited research organisation, based on a specific legal regulation,
- sports activities performed by professional athletes as a job, and training activities of sports trainers.

The employer must prove that the requirements for exemption have been fulfilled. This exemption does not apply to work performed by foreigners over and above the scope of exemption.

III.2. EEA citizens and their relatives

III.2.1. Exemptions related to work permits issued for EEA citizens and their relatives (green card employees)

The citizens of EEA countries listed under II.2. and their relatives can be employed in Hungary unlike stated in the general rules for EEA citizens with a work permit issued without the examination of the labour market situation.

Even if this rule is applied, no permit is needed for the employment of

- Austrian, Liechtenstein, German and Swiss citizens,
- Danish, Belgian and Norwegian citizens

in Hungary, if the above mentioned citizens have been legally employed on or since 1st May, 2004 continuously for a minimum of 12 months. Neither do the relatives of the above mentioned EEA citizens need a permit to work in Hungary if this relative has been legally residing in Hungary with the listed EEA citizen since 1st May, 2004.

The same exemptions should be applied for Romanian and Bulgarian employees, if they have been legally employed on or since 1st January, 2007 continuously for a minimum of 12 months. The exemption applies for the Romanian or Bulgarian employee subject to no work permit only if this relative legally resided in Hungary together with the Romanian or Bulgarian citizen since after the 1st January 2007 for a period of 18 months.

The exemption from work permit should be certified by the employer or by the regional labour centre competent in the area of employment (green card).

III.2.2. Exemptions related EEA citizens as a general rule

As a result of the accession of the Republic of Hungary to the European Union, not only the general rules laid down in the Employment Act and the Ministerial Decree for the employment of citizens of the EEA Member States in Hungary, but also the provisions of other legal regulations arising from the Community legislation must be applied.

In harmony with the Regulation 1612/68/EEC on the free movement of workers within the Community, Act IV of 1991 on the Promotion of Employment and Services to the Unemployed, modified several times, sets the **main rule whereby the citizens of the European Economic Area (EEA) and their relatives do not require a permit for employment in Hungary.** Relatives of EEA citizens are entitled to free employment as relatives, irrespective of citizenship, whether they are EEA citizens or not.

(***EEA citizen****: citizen of a state having joined the Treaty on the European Economic Area;*

> ***EEA Member States:***
> *1. Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, Spain, Sweden, United Kingdom* ***(old EU Member States****)*

*2. Norway, Iceland, Lichtenstein **(EEA Member States)***
*3. Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovenia, Slovakia, Hungary, Malta, Cyprus **(Member States joining in 2004)***
4.** Romania, Bulgaria **(Member States joining in 2007)

***Relative of an EEA citizen**: Marital partner, direct descendant aged less than 21 years, or dependent on the EEA citizen, as well as direct ascendants of the EEA citizen and his marital partner, kept by them.)*

The labour market protection measures applied by some former EU Member States against Hungarian citizens and the permit exemption of EEA citizens based on the accession of Romania and Bulgaria on 1 January 2007 is only a theoretically applied rule. In line with the principle of reciprocity, the same protective measure is applied against a citizen of a particular EEA state as is applied by the specific country against the Hungarian citizens intending to work on its territory. However, if certain legislative conditions are satisfied, EEA citizens requiring, otherwise, a work permit can also be employed in Hungary without a permit.

Pursuant to government decree, apart from the exemptions already mentioned, the EEA citizens protected by safeguard measures, that is

-Austrian, Liechtenstein, German and Swiss citizens,
-Danish, Belgian and Norwegian citizens,
-Bulgarian and Romanian citizens
and their relatives can be employed without permit in Hungary in activities requiring vocational qualification if the foreign citizen possesses the qualification needed for the job.

Pursuant to government decree 355/2007. (XII. 23.) the employer is obliged to notify the regional labour office about the employment of any EEA citizen and their relatives in Hungary if the employment is not subject to work permit (according to the rules above).

The starting date of the employment should be reported the latest on the first day of the employment, the termination of employment should be reported on the day after the termination of employment.

The report should contain:

- the number of employed people,
- their nationality,
- the form of employment,
- in case of relatives the status of relationship,
- and the fact whether the employment has started or terminated.

The labour office confirms the accomplishment of the report and registers the data reported.

5.2. The licensing procedure

Types of the work **permits**:

- personal permit,

- agricultural seasonal employment permit,
- collective permit, and
- personal permit based on a collective frame permit.

The total number of foreigners who may be employed in Hungary based on a permit simultaneously cannot be higher than the number of vacant positions reported in an average month of the previous year.

The Minister of Social Affairs and Labour may, in agreement with the other ministers concerned, define in a decree the highest number of foreigners who may be employed in various occupations in total concurrently, in Hungary, as well as in the counties and Budapest, as well as the occupations where foreigners may not be employed based on the trends and composition of unemployment in Hungary. These provisions cannot be applied to individuals holding the right to free movement and residence, who may be employed in Hungary without a permit.

The highest number of work permits to be issued to foreigners is published by the Minister of Social Affairs and Labour in the official Hungarian Gazette (Magyar Közlöny) by 1 February each year.

Personal permit based on the general rules

A personal permit must be issued if

- the employer had had an effective labour demand for the activity to be pursued by the foreigner before the permit application was submitted,
- no Hungarian individuals or EEA citizens or relatives registered as unemployed under the provisions of the Employment Act and satisfying all the employment requirements defined by legal regulation and stated in the employer's effective labour demand have been referred to the employer since his announcement of the effective demand for work,
- the foreigner satisfies the employment requirements defined by legal regulation and stated in the employer's effective labour demand.

Effective labour demand means any demand for labour announced by the employer at least fifteen days, but no more than sixty days before the submission of the application for permit, or announced by the employer more than sixty days earlier, and renewed at least every sixty days, so that the last renewal occurred no earlier than sixty days before the submission of the application.

The employment of the foreigner may be permitted if all the above legislative conditions are met. The satisfaction of the conditions must be certified by official documents.

The personal permit must also state the prospective employer employing the foreigner based on the permit, the specific workplace and activities, as well as job and the term of employment.

A personal permit may be issued for no more than one year according to the general rules, but it may be extended. In exceptional cases defined by legal regulation (e.g., key foreign personnel, delegated members of diplomatic/consular missions, etc.), the permit may be issued for two years and can be extended for two years. Extension takes place according to the licensing rules.

Employment cannot be allowed if

- the employer doesn't have an effective demand for labour or the specifics of the labour demand and of the application for employment do not match,
- there is a Hungarian employee available for placement who meets all the terms and conditions stated by law and by the employer for filling the job, but his/her employment failed because of the employer,
- there is no available Hungarian employee for the job, but neither does the foreigner meet the job requirements,
- the employer doesn't want to start the employment of the foreign employee within 120 days after submitting the application,
- the foreigner would be employed at an employer other than the one stated in the application,
- the exclusive subject matter of the service is loaning the capacity of the foreign worker for an extended period of time,
- the personal base wage indicated by the employer is considerably lower than the corresponding national average,
- the employment contract is not established between the employer and the foreigner,
- the competent authority of the foreigner's country stipulates stricter conditions for the employment of a Hungarian citizen in the given country than for the citizens of other countries.

The application may also be rejected if the employment of the foreigner is not justified based on the consideration of other employment criteria (e.g., if a labour or labour security fine was imposed effectively on the employer within one year before the submission of the application, or the employer was obliged to pay a certain fine as defined by special legal regulation for the employment of foreigners without permit within three years prior to the submission of the application, and failed to do so).

Personal permit issued without evaluation of the labour market situation

In the following cases, the employment permit must be issued without evaluating the labour market criteria, if the eligibility conditions have been checked and certified:

- within the framework defined in an international agreement
- in case of the employment of a foreigner as a key personnel,
- in every calendar year, in case of a company with major foreign share, it is possible to employ foreigners to the extent of not more than 2% of the statistical staff headcount on 31 December in the previous year at the company,
- for an internationally acknowledged invited foreigner for his/her educational, artistic and scientific activities at a tertiary level educational, research, and cultural institutes,
- for the employment of a close relative of a foreigner in employment in Hungary for at least 8 years, if the close relative has been living in Hungary with the foreigner for at least for 5 years,
- for the employment of a Hungarian's foreign marital partner, who may be employed without a permit based on the Employment Act, or employment of the widow/er of people listed above who cohabited with the marital partner in Hungary for at least one year before the partner’s death,

- for servicing, commissioning, warranty and guarantee activities in excess of the period specified for permit exemption, based on a private law contract made with a foreign enterprise;
- for the employment of a foreigner whose employment in Hungary has been approved by the Immigration and Citizenship Bureau of the Ministry of Interior according to the legal regulations applicable to foreigners,
- for work performed by refugees granted authorisation to stay outside the premises of the refugee site, whose employment in Hungary is supported by the Immigration and Citizenship Bureau of the Ministry of the Interior for humanitarian reasons,
- for the employment of foreigners to be employed by a diplomatic or consular representation or other agency of a foreign state, but are not members of their staff, and are not persons delegated by the sending state either, and
- for the employment of foreigners to be employed by the National Film Office or a film producing enterprise registered according to a specific legal regulation,
- if the employment of the foreigner relates to job training for no more than three months a year,
- employment of close relatives of the military forces and civilian staff serving under the North Atlantic Treaty and staying in Hungary, for their service period,
- education activities in Hungary to be carried out by researchers in addition to their research activity specified by an acceptance agreement concluded with an accredited research organisation.

Seasonal agricultural work permit

Agricultural seasonal employment (plant production, animal husbandry, fishing) may be permitted for no more than 150 days in 12 months. The permit may not be extended. The 12-month term must be calculated form the starting date of the earliest employment stated in the first permit issued for the employee's seasonal employment. The employment term may be defined in several phases within one permit.

In accordance with the general rules, an effective demand for labour is a demand for labour announced by the employer at least 15 days, but no more than 60 days before the submission of the application for the work permit.

The application must be rejected if the foreigner has already exhausted his 150-day limit and in other cases defined under the general rules. The application may also be rejected based on labour market considerations.

With regard to agricultural seasonal work permits issued to Romanian and Bulgarian citizens, the provisions of the relevant Ministerial Decree and of Gov. Decree No. 355/2007 (XII. 23) Korm. must be applied jointly. Consequently, with regard to the issue of agricultural seasonal work permits to such employees, the labour market conditions (availability of workforce for mediation) need not be analysed.

Seasonal employment may also be permitted in the form of employee lending.

The National Office for Employment and Social Affairs keeps records based on the reports of the PES centres of the number of issued agricultural seasonal work permits .

The collective framework permit

The collective framework permit is a special type of the employment permits. This type of permit must be requested if an employee of a foreign employer performs work on the territory

of Hungary, in the interest of the Hungarian employer, usually based on secondment, pursuant to the provisions of a private law contract established between a foreign corporation registered in a non-EEA Member State and a Hungarian corporation.

In the collective framework permit procedure, the applicant is the Hungarian employer. The licensing procedure may be started even before the private law contract is signed by the employers.

The collective framework permit is a 'promissory note' issued by the PES centre to the effect that the personal work permits for the activity and up to the number specified in the collective framework permit will be granted. An application may be submitted for a collective framework permit if several foreigners must be employed for the purpose of performing a private law contract concluded between the employer and a foreign corporation. Prior to the issue of the collective work permit, the PES centre obtains the opinion of the National Employment and Social Office. The collective framework permit must specify the citizenship of the foreigners eligible for employment, as well as the number of people who may be employed, broken down by activity and qualifications.

The collective framework permit in itself does not entitle its holders to employment; the employment of the foreigner also requires a personal permit issued based on the collective framework permit.

The PES centre notifies the Hungarian Trade Licensing Office of the granted collective framework permits.

Once the collective framework permit has been acquired, the procedures for the personal permit(s) based on the collective framework permit may be launched by submitting the application to the geographically competent regional PES centre.

Personal permit based on the collective framework permit

A personal permit based on the collective framework permit may be issued on the basis of the collective framework permit. During the effective term of the framework permit, the permits indicated under it in a breakdown by activity, qualification and number of persons must be issued during the effective term of the collective framework permit.

The activity forming the subject matter of the private law contract may be commenced, and the foreign citizens may start work in Hungary within the framework of that contract, only after the licensing procedure has been effectively closed, at the place and for the term defined in the personal permits issued on the basis of the collective framework permit.

Rules of the licensing procedure

The demand for labour must be reported at the PES office, and the permit application must be submitted at the regional PES centre, competent by the territory where the foreigner will be employed.

Contrary to the general **rule of competence**, if, based on its nature, the activity concerned will take place on the territory of several counties and PES offices, then the Public Employment Service regional office competent by the place where the work in question

would be started or, if the employer intends to employ the foreigner at several sites situated in various counties and territories of various PES offices, then the PES regional office competent by the employer's registered seat will proceed.

Employment may be permitted for a maximum term of one year, but the permit may be extended. If the employer requests the extension of the permit, it may be considered an application for extension **if** the relevant application is submitted at least 30, but no more than 60 days before the expiry of the permit.

The application for a work permit must be submitted on a form attached to the Ministerial Decree. The following must be attached to the application form: an authenticated copy of the document certifying the qualification of the foreigner required for the activity, or if the document was issued abroad, then its authentic Hungarian translation; a medical certificate on the physical suitability of the foreigner for the job; for professional athletes performing sports activities, a declaration of the federation indicating that professional sportsmen may be employed in the given sports and, if preferential conditions warranting the omission of the investigation of the labour market situation are applicable to the request, the documents certifying the satisfaction of eligibility conditions.

The application form is submitted by the employer. The licensing procedure is an official administrative procedure, in which the proceeding PES centre must decide on the application within 10 working days starting form its receipt. The PES centre will send the permit to the employer.

The permit indicates the employer employing the foreigner, as well as the specific activities, job profile and the applicable term. The employer must keep the permit during the term of employment and for the subsequent three years, and present it to any agency performing regulatory audits.

The failure of a proposed employment relationship subject to permit, the termination of employment, or any change resulting in permit exemption must be reported to the PES centre issuing the permit within 5 days. The PES centre withdraws the permit if employment is terminated, or the employee is employed at a workplace or in a job other than those specified in the permit, or as and when employment becomes exempt from permit.

5.3. Employment of EEA citizens in Hungary for posting

Pursuant to community law (decree 1408/71/EEA and 574/72/EEA) and pursuant to the principle of free flow of services and the current relating government decree (355/2007.(XII.23.) on personal scope, the employee employed in posting in Hungary by an employer registered in an EEA country does not have to have a work permit, but the employee has to possess the documents needed for posting. The rules valid for the employees of the citizens of EEA countries has to be applied when the spouses or relatives of a citizen of a third country is posted to do work in another member country.

In order to be able to apply the rules valid posting, the employer can oblige the employee to do work only

- for economic reasons,

- for a period of time,
- outside the usual workplace.

Other conditions for the rules valid for posting to be applied:

- the employers' right are applied by the employer during the posting period,
- the salary is paid by employer,
- and the other charges related to the salary is paid in a similar way as if the employee is employed on the premises of the employer.

The duration of the posting can be 12 months, which can be extended once by 12 months. The form designated to prove the fact of posting (E101) is to certify for the authority competent in the region of the country where the work is done, that the employee stays insured in the country where he/she is posted from, consequently the employee does not have to pay the charges of the country he/she is working in. The employees posted from EEA member countries do not have to reported by the employee to the social security authorities.

The posted employee in all cases has to keep the E101 form with himself. In such a case when the posted employee is not able to prove the fact of posting during a control, the employee has to be regarded as eligible for the services of the Hungarian social security system.

The posting can be extended by a maximum of 12 months. The posting can be extended only with the permission of the sending member country's competent authority, which is given on an E 102 form completed by the employer.

In the member country where the employment is effectuated, in this case in Hungary, the short termination of work does not mean the termination of posting as well. If the employer wishes to post the employee right after the termination of the posting, and if the place of work is the same as it was in case of the previous posting, then the two postings should be considered as one.

Posting to the same member country can be effectuated only if 60 days have already past from the previous posting.

Pursuant to community law and to the principle of free provision of services, the employee of third countries employed by a firm registered in an EEA country could be posted to Hungary without work permit.

II. Unemployment management

1. Job seekers, job search support

One of the key principles of the Hungarian unemployment service system is that only those job seekers may receive job search support who are registered by the Public Employment Service (an office of the regional PES centre). In addition to meeting other conditions, a job seeker is a person who would like to find employment (again) and is therefore engaged in active job search and makes all reasonable efforts to find one, in which context he closely co-operates with the PES centre and accepts a proposal for an appropriate job. The active job search of the individual is the key aspect of the definition of the concept of a job seeker.

The method of active job search is or may be set out in an agreement concluded between the job seeker and the PES office. If the job seeker receives job search support (job search benefits or aid, or regular social aid) in addition to his co-operation with the PES centre, then it is compulsory to enter into a job search agreement with him. In other cases, a job search agreement may be concluded with a job seeker, whose co-operation obligation should be registered in a written agreement.

If a job search agreement is signed, the job seeker must regularly report about his actions for finding a job. The job search agreement is the joint document drawn up by the job seeker and the PES office, in which they define a series of hierarchically structured activities which help the job seeker return to the labour market. The key component of such activities is the individual's intensive involvement in individual job search. The employees of the PES centre help the active job search by identifying as many vacancies as possible, by job brokerage, consultancy, the presentation of a wide range of labour market information, the operation of a standard nation-wide databank of vacancies and job seekers, and the supply of labour market information through a self-information system.

Naturally, the Public Employment Service does its best to help every client addressing it to the extent of the possible. However, it will treat a client as a 'job seeker' if the person concerned is really able and ready to work, and can start it within a reasonable time.

Let us now review the relevant provisions of the Employment Act and the related legal regulations.

1.1. Who is a job seeker?

A job seeker is a person without a job, but looking for employment, who co-operates with the office of the regional PES centre competent according to his home, place of residence or accommodation in order to find employment, and who also satisfies the applicable legal requirements.

Under the provisions of the Employment Act, a job seeker is a person who

1. satisfies all the requirements of establishing employment, and

2. does not conduct studies on day-time courses of an education institution, and

3. is not entitled to old-age pension and does not receive rehabilitation benefit, and

4. is not employed, apart from casual employment, and does not pursue any other earning activities, and

5. co-operates with the public employment agency in order to find employment, and
6. is registered as job seeker by the public employment agency.

Pursuant to the provisions of the Act on the entry to Hungary and stay of people possessing the right to free movement and entry, people possessing the right of free entry and residence (EEA citizen and his relatives) may also be registered as job seekers if they can engage in employment in Hungary only based on a permit.

The person concerned satisfies the **co-operation obligation** defined as a legislative requirement for acquiring job seeker status if he

- requests to be registered as a job seeker, and
- visits the public employment agency at the required times, or at least every three months, and
- reports any changes in the legislative requirements defining his status as a job seeker to the public employment agency within 8 days from the occurrence of the event, and
- is also actively looking for a job himself, and
- accepts a proposal for an appropriate job.

An active job seeker is a person who is capable and willing to take the job offered by the PES office or a job found by himself with a weekly working time of at least 16 hours, within 30 days.

Who is classified a career-starter job seeker?

Career-starter job seekers form a special group of job seekers subject to other special requirements as well as those applicable to job seekers in general.

A career-starter job seeker is an individual under 25 or, in the case of individuals with higher level qualifications, 30 years of age, who satisfies all the requirements for engaging in employment, is registered by the Public Employment Service (office of the regional PES centre) as a job seeker, providing that he did not acquire eligibility for job search support after the completion of his studies.
The following shall not be classified as career-starter job seekers:

- persons subject to preliminary arrest or detention and people in prison.
- people receiving pregnancy–confinement benefits, child-care fee or aid, or

Contents of the job search agreement

The labour office (i.e. PES office) must always enter into a job search agreement with job seekers receiving job search support (job search benefits, job search aid) or, besides co-operation with the PES centre, regular social aid. In other cases, a job search agreement may be concluded with job seekers whose co-operation obligation should be put into a written agreement.

In the job search agreement, the job seeker and the PES office jointly define the tasks and obligations of the job seeker in order to find employment as soon as possible.
The job seeker is responsible for regularly monitoring various sources of information himself (e.g., advertisements, vacancies displayed on the Internet, applications, etc.) and for

identifying vacancies himself by addressing potential employers (e.g., in person, in writing, by phone, through the Internet, etc.).

The information and the labour market services provided to the job seeker by the PES office are also part of the job search agreement.
The PES office and the job seeker define the most important features of the job sought by the job seeker, as well as the frequency of the job seeker's visits to the office in the agreement. The job search agreement is the written document of the legal relationship established between the job seeker and the PES office, the contents of which are binding for both parties.

The PES office and the job seeker jointly evaluate the performance of the provisions of the job search agreement. Within the framework of the evaluation, the job seeker must report on the performance of his obligations undertaken in the job search agreement. He must identify the reasons of the failure of his job seeking activities, as well as the activities required by the PES office or the job seeker based on the experiences of the job search process.

The PES office and the job seeker may modify the job search agreement with mutual consent, if the job seeker is unable to fulfil his obligations due to any changes in his conditions occurring after the conclusion of the job search agreement, or would otherwise like to modify the method of job search defined in the agreement. The agreement can only be modified following the evaluation of the performance of its provisions.

1.2. Job search assistance

There are three types of job search assistance:
- job search benefits,
- job search aid and
- reimbursement of expenses.

Job search benefit

The **job search benefit** is a mixed-type support containing insurance and social components. Besides the improvement of social security, it also enhances the insurance principle and increasingly encourages people to look for jobs and accept work opportunities and jobs. It does so in part by being regressive, i.e. through the gradual reduction of the support amount as time passes.
If several other conditions are simultaneously satisfied, the allowance can be granted to job seekers who were employed for at least 365 days in the four years before they became unemployed. As eligibility for one allowance day requires five days of employment, the shortest period of the job search benefit disbursement is 73 days, and the longest period is 270 days.

The experience is that the chances of re-employment are much better during the first few months than after a long period of unemployment. Based on this consideration, the Employment Act breaks down the job search benefit disbursement period into two phases:

a) In the first phase, which lasts for half of the disbursement period, but at most for 91 days, the job search benefit amount corresponds to 60% of the previous average

wages, with a fixed lowest and a fixed highest limit corresponding to 60% and 120%, respectively, of the mandatory minimum wages ever.

b) The second phase equals to the number of outstanding eligibility days, but no more than 179 days. In this phase, the benefit amount is a uniform 60% of the mandatory minimum wages.

(If the previous average wages are lower than the bottom limit of the benefit, then the benefit amount shall be identical with the average wages in both phases.)

The first day of benefit disbursement is the day on which the job seeker contacts the PES centre. In derogation from that, if employment was terminated by the employee by ordinary notice by the employee or by extraordinary dismissal by the employer, then the job search benefit can be disbursed 90 days after the date of the termination of employment, providing that the job seeker satisfies all the requirements of disbursement.

When is the disbursement of the job search benefits interrupted?

If the job seeker:

- receives pregnancy–confinement benefit or child-care fee or aid, for the term of disbursement of such support,
- is in preliminary arrest, detention or in prison serving punishment, unless the imprisonment was established as a result of a fine conversion,
- does community work during its period,
- performs a short-term income-earning activity for up to 90 days, providing that this work was reported to the PES centre in advance,
- receives wage supplementing benefit, or
- performs work with the occasional employment book.

If the reason of the interruption of the disbursement of the job search benefit no longer exists, and the conditions of eligibility for job search benefits are satisfied again, then the disbursement of the job search benefit must be continued.

When is the disbursement of the hob seeking allowance terminated?

If the job seeker:

- requests it,
- receives job search benefits and is deleted from the register,
- becomes eligible for old-age, disability or accident-related disability pension,
- performs and income-earning activity, unless it is for a term of less than 90 days, and the activity has been reported to the PES centre in advance,
- accepts a training opportunity, during which he receives regular support in the amount of at least the mandatory minimum wages,
- conducts studies on a day-time course of an educational institution,
- dies,
- has already exhausted the disbursement period of the job search benefit.

Entitlement of the job seeker in case of employment

The employment of a job seeker is encouraged by the legal provision according to which if he enters into an employment contract for an indefinite term for a full-time or at least half-time job during the disbursement period of his job search benefit, and his employment is continuous, upon his request, fifty percent of the benefit due to him for the outstanding disbursement period must be paid out in one lump sum. In this case, the outstanding part of the disbursement period should be considered as if the job seeker had exhausted the disbursement period of his job search benefit.

Job search aid

There are three special types of the **job search aid**, supporting different categories of people with a benefit disbursed to them in the amount of at least 40% of the mandatory minimum wages.

The **first type** of job search aid is payable to job seekers who were entitled to job search benefit for at least 180 days, but have already exhausted the benefit disbursement period. An application for the disbursement of this type of job search aid must be submitted within 30 days from the termination of the job search benefit. According to the main rule, the disbursement period is 90 days, but if the job seeker has completed 50 years of age at the time of submission of his application, then the disbursement period of the job search aid will be extended by 90 days.

The **second type** of job search aid can be granted to job seekers who are not eligible for job search benefit, but served at least 200 days in employment in the four years before becoming a job seeker. The disbursement period is 90 days.

Those job seekers are eligible to the **third type** of job search aid who do not need more than 5 years to reach the applicable retirement age at the time when they submit their application for the aid. Another requirement is that the job seeker must have received job search benefit for at least 140 days, and he would reach retirement age within three years after the exhaustion of the disbursement period of the benefit; a further requirement is that the job seeker must have acquired the service period required for old age pension. The aid can be disbursed until the acquisition of eligibility for pension.

Naturally, it can hardly be expected from the aid system ‘to encourage people to work’, but the objective is to have the lowest possible counter-incentive effect. This also means that employment should not automatically mean the loss of the aid. Consequently, during the disbursement period of the job search aid, employment based on the occasional employment book is allowed, but contrary to occasional employment during the disbursement period of the benefit, income earned from such employment does not affect the disbursement of the aid. Apart from this rule, most of the provisions applicable to the termination and interruption of the disbursement of the job search aid are identical with the regulations applicable to the termination and interruption of the job search benefits. The law contains different provisions only for those who are very close to retirement age. In such cases, any income-earning activities trigger the interruption of the job search aid instead of its termination. It is because, in case of termination, the job search aid would have to be established again which, bearing in mind the time passing, could lead to the loss of the eligibility criteria.

Reimbursement of expenses

Within the framework of **reimbursement of expenses,** the competent office of the PES centre reimburses to the job seeker the expenses related to the establishment of the job search support and the entrepreneurial allowance, the performance of the requirements set out under the job search agreement, as defined therein in advance, as well as all eligible long-distance travel expenses involving public transport vehicles which relate to his job-seeking activities (including travel from home to the PES office and back, as well as trips required for obtaining an occupational health expert opinion proposed by the PES centre). In exceptional cases defined by law, eligible local travel expenses can also be reimbursed to the job seeker.
Reimbursement of expenses may be requested and the relevant administration activities will take place at the PES office registering the job seeker.

Entrepreneurial allowance

On top of the above job search support, there is another type of support, the **entrepreneurial allowance**, which provides financial support to individual and corporate entrepreneurs if they lose their job, under the same rules as those applicable to the job search benefit.

2. Labour market services

The Public Employment Service promotes job search, access to work and to a satisfactory workforce, as well as job retention also by providing various services.

There are three categories of services:
- information services,
- consultancy-type services, and
- job mediation.

and since 2008 the mentoring service has also appeared in a legally controlled form.

2.1. In the **information supply** phase**,** which may take place on an individual basis, or in the framework of consultancy, at job fairs or job brokerage, people are informed about the situation of the labour market, the various forms of employment promotion support offered by PES, the terms and conditions of the use of job search support as well as about the employment-related regulations.

2.2 The **consultancy** services, available in the form of individual and group services, fall in the following categories.

The purpose of *work counselling* is to identify the conditions hindering the employment of the person using the service, and to work out a plan to overcome the barriers and to promote successful employment.

A related service could be *job search counselling*, within the framework of which job seekers receive individual advice and master job search techniques. The job seekers' club assists in the placement of individuals who would like to work, but lack the knowledge

required for finding a job. The job seekers' club is a good example of the combination of carious services and support schemes as instruments serving the same labour market objective. Participation in the activities of this club generates eligibility, under certain conditions, for wage supplementing benefit.

Career consulting promotes *career choice and correction* by developing a career plan matching the individual's interests, capabilities, personality and the labour market requirements.

Rehabilitation counselling helps the unemployed whose working capability has changed, with special regard to their particular circumstances, i.e. the fact that they cannot be mediated to jobs in line with their qualification level.

To the extent necessary for achieving the purpose of the service, *psychological counselling* is also available in relation to the various other consultancy services and to labour market training. This type of counselling helps job seekers identify the conditions hindering their placement based on their lifestyle or personality problems.

Counselling may take place in the form of individual conversation, group counselling, structured group training, assessment of interest, values, competences and personality traits and enhancement of career knowledge.

2.3. The offices of the PES centres can offer the mentoring service for the job seeker or any other person using the services or receiving support from the PES centres if it can be concluded from a personal meeting that personal counselling is needed in order to complete the requirements of the cooperation agreement, to use the services and benefits, to keep in contact with state or any other authorities, to start work individually or to fit in the workplace. The mentoring service can only be provided by mentors with a qualification required by the law.

Support provided to labour market service providers

The information supply and counselling activities described above are not only performed by the staff members of the Public Employment Service, but **also by individuals and organisations who/which receive support** from the PES centres based on application **for the supply of such labour market services** once they have satisfied the relevant legislative requirements, e.g. personnel and technical infrastructure requirements.
The amount of the non-repayable support, granted for a maximum of 3 years, is calculated on the basis of the standard costs of the individual activity types defined by legal regulation.

2.3. The offices of the PES centres are engaged in **job mediation** as a core service, to promote the match between persons looking for a job, i.e., not only job seekers, but also other people requesting mediation, including those in employment, and the parties offering jobs.

Within the framework of job mediation, on the demand side, the PES office *conducts an interview with the job seeker*, during his employment-related strengths and weak points are identified. If necessary, the PES office recommends appropriate services, and informs the job seeker about the main characteristic features of the job opportunities that are the most suitable for him.

The basic requirement for effective mediation is the thorough knowledge of the demand side, i.e. the labour demand of employers. Therefore, the Public Employment Service *maintains regular contact with the employers*. One of the main pillars of this relationship is the employer's obligations specified under the Employment Act *according to which he must regularly notify the competent PES centre about his labour demand and its termination*, thus assisting the activities of the Public Employment Service. However, it is typical of the operation of the Hungarian labour market that a relatively small proportion of vacancies is reported by the employers (only 30% according to some estimates, or 50-60% according to other approaches) and, therefore, the PES offices put special emphasis of vacancy identification and employer contacts.

The database of vacancies reported to the Public Employment Service is accessible via the Internet at the www.afsz.hu website.

We must also note that since Hungary joined the European Union, whenever an employer declares that a vacancy may be advertised, then the advertisement is also displayed on the network of the European Employment Services (EURES), and citizens of EEA Member States and their relatives may also be referred to such jobs.

The purpose and also the last step of job mediation is the activity of the Employment Service which matches the expectations of the demand and supply sides, i.e., *assists those looking for work and those offering jobs find each other, in order to help them, establish an employment relationship*.

In this activity, the PES office must try to identify and offer employment opportunities best suited to the vocational qualification, experience and other circumstances of the individual looking for work, and to select and mediate individuals to potential employers who satisfy their labour requirements. Job mediation can take place individually and in groups.

Apart from the Public Employment Service, ***private job mediators*** can also operate if they satisfy the requirements defined under the relevant legal regulations and if ***they figure in the register of the competent PES centre.***

The register kept by the PES centres is a public document allowing those looking for a job to check whether the contacted private job brokerage agency is operating legally. (The database of the private job mediators is also available at the www.afsz.hu website, but information displayed there is based on the periodical data supply of the PES centres, and is not updated daily.)

It is guarantee rule that private job brokers may not collect any fees or claim expenses from people looking for a job.

3. Support promoting employment

The labour market support system based on the Employment Act (Act IV of 1991) sets out the requirement for an active employment policy, with the main rule of applying solutions primarily aimed at the prevention of unemployment and the reduction of its spell. This provision also expresses that employment policy cannot be reduced to supplying services to employees who have become job seekers.

Adaptation to the requirements of the labour market is a very important objective even during the effective term of employment, or immediately before its expected termination. The same also applies to job seekers, under the condition that they should try and reduce the term of unemployment through retraining and other suitable instruments.

The above objectives are served by support promoting employment, the majority of which is not provided on a 'citizen's right', but the public employment agencies (regional PES centres and their offices) assess, based on technical considerations integrated in their proceedings, whether support should be provided to a particular individual or for his employment, and if so, which form of support would be the most effective.

During the assessment of the approval of the support, the Public Employment Service takes into account the features of the labour demand and supply, the employment situation and unemployment indicators of the particular region, the experience of co-operation between the PES centres and the employers, the term of employment offered by the employer, and the chances of job seekers to get a job.

The effective system of support promoting employment is laid down in Act IV of 1991 on the Promotion of Employment and Services to the Unemployed (the Employment Act), as well as in lower-level implementing regulations issued on the basis of an authorisation contained in the Act. The majority of the support categories introduced in the 15 years after the codification of the Act was based on active measures regulated in 1191 (training, community work, job creation support, wage subsidy promoting employment and assistance to would-be entrepreneurs). Their upgraded versions, with mostly identical contents, were supplemented with new support categories, to form the support system of approximately 40 types of active measures by 2006.

Apart from the Employment Act, other preferences regulated in different acts also help improve the employment situation and to increase employment in certain groups. The system having unfolded by 2006, including several overlapping forms of support targeting the same jobless stratum, was partly due to this arrangement.

In relation to the accession of the Republic of Hungary to the European Union, the group exemption community regulations on support to enterprises could remain in force until 31 December 2006, but with a transition period, the support covered by the regulations remained available for another six months, i.e., until 30 June 2007.

However, those support categories, which were classified as existing aid in conformity with the Community legislation prior to Regulation (EC) No. 2204/2002/EC (e.g., employment promotion subsidy, job preservation subsidy, support for the expansion of rehabilitation employment and support for gaining work experience) could only be provided under the same terms and conditions until 31 December 2006.

The labour market support system had to be changed with an effective date of 1 January 2007 in relation to the fulfilment of obligations arising from the Community legislation, and the need for ensuring the simplification and enhanced transparency of the support system. The modifications affected primarily the support categories available for corporate enterprises but, in addition, several support categories available for natural persons participating in the labour market also changed in their format and contents.

It has to be noted regarding the regulations of benefits that the supports under the EC Regulation mentioned above can only be allocated until 31 December, 2008. The social

benefit system of the period following this date is defined by the Commission Regulation 800/2008/EC (6th August, 2008).

Some of the labour market allowances can be granted directly to job seekers, while another part can be provided to employers, based on the following regulations.

Support available directly to job seekers

- support to participation in employment promotion training,
- self-employment support.

Support to employers

- support to training of employees,
- employment promotion support,
- wage cost subsidy,
- support to community work,
- job creation support,
- job preservation support,
- mobility support,
- support to the employment of people with changed working capabilities,
- support aiming at the mitigation of the detrimental consequences of collective redundancies,
- support to labour market programmes

Support directly available to job seekers

Support to participation in employment promotion training

Support available for labour market training is an active measure to promote employment, which helps job seekers and the employed members of other groups who raise children or nurse relatives and face a real threat of unemployment, but whose placement and job retention chances can be improve through retraining.

Consequently, training support is available not only to job seekers, but for the training of the following:

- persons under 25 years or, in the case of people with higher qualifications, 30 years of age, who have not acquired eligibility for benefits after the termination of their pupil or student status,
- recipients of childcare aid, child raising support, pregnancy/confinement benefits, child-care fee or nursing allowance,
- recipients of rehabilitation aid,

- persons whose employment is expected to terminate within one year, and whose employer has notified them and the competent PES centre about this in writing in advance or
- persons taking part in community work and agree to take part in training.

Wage supplement or, in the case of intensive training of at least 20 hours a week, wage replacement benefit may be provided under the title of training support, and the expenses related to training may be reimbursed either in part or in full.
The wage supplement may be provided up to the difference between the average wages earned before the training and the wages earned during the training, while the wage replacement benefit corresponds to the mandatory minimum wages effective at the time of the approval.

The offices of the PES centres take into account the shortage vocations, the existing qualifications of the individual receiving support, the expenses incurred in relation to training, the work experiences of the individual receiving support, time spent by the individual in job seeker status, and whether the training concerned is justified for the purpose of improving the individual's position on the labour market when deciding whether to award the training support.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996 (VII.16.) MüM of the Minister of Labour.

Self employment support

The following support may be provided to job seekers registered by the PES centre for at least three months, who employ themselves as individual entrepreneurs, as a member of a business association contributing to its activities in person, or as agricultural producers:

- a capital injection of up to HUF3 million, either in the form of repayable of non-repayable support,
- monthly support up to the mandatory minimum wages for the maximum term of six months.

The above two support categories may be provided either together or separately, based on an application.

The purpose of this support is to enable the job seeker to employ himself without an actual employment contract. Apart from registration as job seeker for three months, the main requirement for the support is that applicants must have their own funds and some financial security. In addition to the above, the PES centre calling for applications may also set further requirements, which must be defined in the call for applications.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree 6/1996. (VII.16.) MüM.

Support to employers

Support to training of employees

The main purpose of this support category is prevention, and it may be provided if the employees cannot be regularly employed by the employer in the long term due to the lack of appropriate professional qualifications.

If employees take part in training, they are entitled to wage supplement and reimbursement of their training-related expenses for the purpose of retaining their jobs.

The condition of the support is that the employer agrees to the continuation of the employment of the participants for at least the same period as the term of the course, and the employer should also contribute to the expenses of the training unless the employee participating in the training has already completed 45 years of age when he submits his application for support.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996. (VII.16.) MüM.

Employment promotion support

The purpose of this support is to help job seekers who are in a disadvantageous situation as defined by law or whose working abilities have changed find employment, and to support the further employment of employees.

Support can be granted to employers who agree to provide employment for at least 12 months and who did not terminate the employment of an employee working in a similar job with ordinary dismissal during a 6-month period before the employment for reasons related to the employers operation, and agrees not to take such measure during the term of the employment of the job seeker either.

If individuals in disadvantaged situations are employed, then the support amount is 50% of the wages and wage-related contributions, and in the case of individuals with changed working capabilities, the amount corresponds to 60% of the wages and wage-related contributions. The support period is one year.

For the purpose of establishing wage subsidy, the following persons will be considered as being in a **disadvantageous situation**:

- persons who are job seekers, and
  - possess at least primary school qualifications, or
  - completed fifty years of age at the start of the employment, or
  - are career-starter job seekers, or
  - were registered job seekers for at least 12 months in the period of 16 months before the start of the employment or, in the case of individuals who have not completed their 25th year of age, but cannot be considered career-starter job seekers, who were registered as job seekers for 6 months during the period of 8 months before the start of employment, or
  - raise at least one young child under 18 alone in their own household, or

  - who received child-care aid, child raising support or pregnancy–confinement benefit, child-care fee or nursing fee within 12 months before the start of employment, or
  - were in preliminary arrest, detention or served a prison sentence within 12 months before the start of employment;
- employed persons threatened by the loss of their jobs, and who
  - have already completed their fifty years of age, or
  - have no more than primary school qualifications without any consideration to age;

For the purpose of establishing wage subsidy, the following jobs seekers will be regarded as **people with changed working abilities:**

- persons whose reduction of working ability is at least 40 percent based on an expert opinion of the National Rehabilitation and Social Expert Institute, before 15th August 2007 the National Medical Expert Institute or, for railway workers, the National Medical Expert Institute of the Hungarian State Railways or
- persons whose degree of the reduction of working ability, according to the expert opinion of the National Medical Expert Institute, is at least 40 percent, or possess a recommendation for rehabilitation.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996. (VII.16.) MüM.

Support to community work

Community work support is designed to assist a special group of employers organising community work and employing job seekers for this activity. This support aims at helping job seekers struggling with temporary or long-term employment problems find a job, and it usually offers a temporary employment solution for the people concerned.

Support may be granted to employers who perform a public task in the interest of the population or the settlement, or a task voluntarily assumed by the local government, or other community activities, by increasing his staff level and receiving no remuneration for such activities from any other organisations.

The support amount may go up to 70% of the direct expenses of the employment or, for employees over 45 years of age, even to 90% of the expenses; the employment councils may also define the conditions and the group of settlements where support can be granted up to 90% of the direct cost of employment.

As a main rule, this form of support can be granted for the employment of one employee for a continuous term of no more than one year (for job seekers over 45 years of age, this period is one-and-a-half year, and for job seekers over the years of 50, employed for the specific activity, the maximum term is two years).

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996. (VII.16.) MüM .

Job creation support

Within the framework of an application procedure, non-repayable support can be granted for the creation of new jobs, expansion of existing workplaces and purchase of fixed assets and intangible assets required for the introduction of new technologies which provide a long-term employment option by increasing the number of employees.

The job creation support can be provided in the following forms:

- regional capital investment support for the creation of new workplaces, extension of existing work places, construction expenses required for the implementation of new technology, and procurement of fixed assets and intangible assets (**regional capital investment support**),
- HR-type expenses related to the establishment of new workplaces as an employment support related to capital investment (**employment support**).

The support may be given to legal entities, business association without legal personality, individual entrepreneurs who satisfy the applicable requirements (e.g., own funds, financial security), and agree to fulfil the obligations specified by the law, such as:

- implementation of the capital investment project within two years from its start,
- continuous operation and maintenance of the capacities and services established with the capital investment project for five years, in accordance with their original purposes, and
- assumption of an obligation to employ continuously the existing monthly average statistical staff prevailing one month before the submission of the application, as well as the staff recruited on the basis of the project, for at least 3 years.

The support may be provided in an application procedure or, based on an individual government decision adopted in compliance with the provisions of Gov. Decree No. 217/1998. (XII. 30.) Korm. on the Order of Operation of Public Finances, based on an application submitted to the Ministry of Social Affairs and Labour. Decisions concerning the awarding of this grant shall be made by the Minster of Social Affairs and Labour.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996. (VII.16.) MüM .

Job preservation support

A non-repayable support can be provided for the purpose of job preservation to employers who intend to terminate the employment of the employee with ordinary dismissal due to reasons related to their operation.

The conditions of eligibility for the support include that the employer must not be involved in a bankruptcy, liquidation or voluntary liquidation (final settlement) procedure; the employee for whom the employer requests support has been employed for at least six months, and the employer must agree to continue employing the employee during the disbursement period of the support, and then for another period of the same length.

The support amount varies between 25 and 75% of the total amount of the wages and related taxes of the employee concerned or, in some cases (e.g. if the personal base wages are identical with minimum wages, or the employee's working ability has changed, or the employment is for a shorter time than before, at 4-6 hours a day), 50-90% may be granted with a limitation that the monthly support amount cannot be higher than 150% of the minimum wages for each employee.

The support can be disbursed for maximum 1 year.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996. (VII.16.) MüM .

Mobility support

Support to long distance travel related to commuting to work

The expenses can be reimbursed either in part of in full, if long-term job seekers are employed for maximum 1 year. If the support is granted, then the expenses of the employee are also reimbursed.
(Pursuant to the Hungarian labour legislation, the employer must reimburse to the employee 86% of the travel pass or full-price tickets used for travelling to work or if the employee travels in 2nd class of the national public railways; 80% of the expenses; if the employee travels on suburban railway, or on local buses and long-distance couches applying long-distance tariffs. In addition to the reimbursement of such expenses, the support may also be used to reimburse the 14% or 20% payable by the employee, which may amount to a major sum for employees commuting from a longer distance.)

Group passenger transportation support

The support can be provided to employers who organise transportation for at least 4 employees between the work place and their homes, with either his own or a hired vehicle, or use a specific service for it, providing that the transportation of the employees between their homes (place of residence) and the workplace would not be possible at all with public transport instruments, or it would cause disproportionate difficulties.

The support can be granted for a maximum term of one year and its amount may go up to the price of the bus passes of the employees involved in the group passenger transportation service between their home address (place of residence) and the workplace, payable by the employer.

The detailed rules applicable to the support are contained under Act IV of 1991 and Gov. Decree No. 39/1998 (III.4.) Korm.

Support to the employment of people with changed working abilities

Note that in relation to support available for people with changed working ability, the PES centres take into account the general criteria as well as the conditions and quality of the employment in their assessment for granting the support.

The evaluation criteria for the conditions and quality of employment could include especially legal employment, compliance with the occupational safety and security regulations, disabled access in case the employees have physical disabilities, integration or segregation of the employment of such employees, the technical standard of the work processes to be completed, the possibility of skill development at the workplace, potential professional promotion, and the qualification requirements of the work to be completed.

Capital investment and development support

Support may be granted based on application for

a) the establishment of an accepting (integrating) workplace, more specifically
- establishment of a workplace,
- transformation and elimination of physical obstacles to ensure disabled access in relation to the employment of persons with reduced working capabilities in production and service facilities,
- purchase and transformation of instruments and equipment required for employment,
- modernisation of the workplace and working instruments for the employment of people with changed working abilities.

b) rehabilitation employment, more specifically
- capital investments involving the establishment, modernisation or development of a workplace, or construction, assembly, enhancement or transformation of a facility, installation of security equipment, as well as purchase, transformation and enhanced security of the working instruments for employing people with changed working abilities.

For the purpose of support, those individuals shall be regarded as persons with changed working abilities,
- persons whose reduction of working ability is at least 50 percent based on an expert opinion of the National Rehabilitation and Social Expert Institute, before 15th August 2007 the National Medical Expert Institute or, for railway workers, the National Medical Expert Institute of the Hungarian State Railways or
- persons whose degree of the reduction of working ability, according to the expert opinion of the National Medical Expert Institute, is at least 40 percent, or possess a recommendation for rehabilitation.

Depending on its title and type, a support may be repayable and non-repayable. The conditions of granting the support comply with the secondary community standards, and are different for the individual support titles.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996. (VII.16.) MüM .

Central budget support

Wage subsidy

This type of support can be provided:

- for employing people with changed working abilities, for the preservation of their jobs, up to 60% of their wages and the related contributions, for a maximum term of 36 months,
- for employment rehabilitation, compensation for lower productivity arising from health impairment or disability in the amount of 40% of the wages and wage-related contributions for employees with 50% changed working abilities; 60% for employees with 67% or higher changes in working ability or with health impairment of more than 79%, or with health impairment of 50-79% not capable of being employed without rehabilitation, but according to the opinion of the National Medical Expert Institute not recommended for rehabilitation; and 100% of the wages and wage-related contributions for individuals with sight and hearing impairment, severe mental or physical disability, for a maximum term of 36 months, but the disbursement of the , support may also be extended for a further 36 months on several occasions,
- for the employment of helpers at the workplace, when the total amount of the wages and contributions applicable to the time spent on group and individual assistance can be reimbursed.

From 1 July 2007 wage support may only be provided to accredited employers based on requirements set out under a specific legal regulation. No wage support may be provided to public administration agencies and public and local government agencies.

Cost compensation support

Protected employers may be reimbursed, based on an application, the expenses of
- passenger transportation from home to work and back, and
- management and administration expenses required for employment and putting in place the conditions of work, as well as logistic, work organisation and transportation expenses related to employees with changed working abilities.

Rehabilitation cost support

The support can be provided based on an application if the employer agrees to employ people under a contract of a sheltered employment provider organisation who could not be employed in the open labour market due to their health conditions or disability.
No more than 80% of the employment costs may be reimbursed as support.

Based on the authorisation under Act IV of 1991, the detailed rules of budget support are contained under Government Decree No. 177/2005 (IX.2. Korm. and Decree No. 15/2005 (IX.2.)FMM of the Minister of Employment Policy and Labour.

Support aiming at the mitigation of the detrimental consequences of collective redundancies

Provided that other conditions are satisfied, this special purpose support may be established within the category of supports if an employer introducing collective (group) redundancies creates and operates committees assisting employees affected by the redundancies to find new jobs.

The maximum HUF1 million non-repayable support can be provided for the operation of this committee, to be used for no more than 12 months.

Support to labour market programmes

Based on the relevant rules, it is possible to provide support to programmes launched for the implementation of pre-defined complex purposes designed to influence the labour market processes and to promote the employment of disadvantaged groups. Within the framework of the programmes, support and services may be provided simultaneously and linked to each other and, under the provisions of the Employment Act, it is also possible to divert from the rules applicable to employment promotion support.

Wage cost subsidy

Within the framework of a labour market programme support can be provided to the employer up to 100% of the wages and related contributions of people belonging to the target group of the programme, involved in its implementation, and employed with an employment contract.

The detailed rules applicable to the support are contained under Act IV of 1991 and Decree No. 6/1996. (VII.16.) MüM .

Common rules of employment promotion support

If employment promotion support is provided, the PES centres and offices enter into an official contract with the party receiving support. Apart from the parties' data, the contract specifies the type, amount, disbursement date and method of the provided support, the other terms and conditions of disbursement, and the legal consequences of violation of the contract. These consequences include the following: if the party receiving support violates the provisions of the official contract, the disbursement of the support must be stopped and the party receiving support must repay the support increased with default penalty.

We should also note that from the date of accession of the Republic of Hungary to the European Union, i.e. 1 May 2004, the EU norms relating to state aid, for the purpose of avoiding the aggregation of aids to the extent that might distort market competition, must also be applied directly to the various employment promotion support categories.

In addition to compliance with the provisions of the Employment Act and its implementing decrees, a further condition for granting labour market support to an employer is that the employer must satisfy the requirements defined in the **Act on Regulated Employment Relations** (Section 15 of Act XXXVIII. of 1992 on Public Finances).

Support provided from the wage guarantee fund segment

This support form has a specific objective, allowing any business association subject to liquidation to pay at least part of the wages owed to its employees.

Within the framework of the wage guarantee procedure, the amount of the outstanding wage debt to employees of a business association subject to liquidation may be advanced, upon the liquidator's request, up to a limit specified by legal regulation.

The detailed rules applicable to the support are contained under Act LXVI of 1994.

4. Structure of the labour market institutions

The public tasks of employment promotion and unemployment management are performed by a national organisation. The Public Employment Service (PES) has a history of more than fifteen years. In order to prevent unemployment and ease its detrimental consequences, since 1991, legal regulations have defined the services and support applied by this agency aiming at the improvement of the situation on the labour market. The task of the Public Employment Service is to implement the employment policy objectives of the Government.

The Public Employment Service consists of the following organisations:

- National Office for Employment and Social Affairs
- regional PES centres.

4.1. The National Office for Employment and Social Affairs functions as a central office, acting as the medium-level management body controlling the PES centres, and performing the following tasks:

- certain functions of the operation of the Labour Market Fund,
- professional control of the PES centres,
- methodological tasks related to job search support and employment promotion support as well as supply of various labour market services; in addition,

it has regulatory competences of second instance, and operates and develops the relevant registration and IT systems.

The Office is managed by a director general, towards whom the employer's rights are exercised by the Minister of Social Affairs and Labour.

4.2. Each of the 7 **regional PES centres** consist of a centre and several offices. The PES centres are managed by a director general, towards whom the employer's rights are exercised by the Minister of Social Affairs and Labour.

Main tasks of the central organisational units of PES:
- management of the regional funds of the Labour Market Fund,
- licensing of employment of foreigners in Hungary,
- promotion of the employment rehabilitation of people with changed working capabilities,
- monitoring of the labour market processes,
- control of adult training institutions,
- information supply,
- control of the PES offices.

In addition, the PES centre also controls the use of support disbursed from the Labour Market Fund and eligibility for services; in addition, certain employment policy support categories, such as capital investment and development support promoting the employment of people

with changed working ability, support to the elaboration and implementation of labour market programmes, are also included in its responsibilities.

The most important activities of the more than 170 offices of the 7 PES centres include registration of job seekers, and performance of tasks for the establishment of eligibility for job search support forms and the disbursement of the support. They perform traditional job mediation activities and provide other labour market services. According to the main rule, all tasks related to the establishment and disbursement of various forms of employment policy support also belong to their responsibilities.

4.3. We also need to mention the regional **training centres** which are public adult training institutions performing

- training tasks,
- other tasks related to training, such as
  - examinations,
  - training material, methodology and training programme development,
  - adult training information supply and guidance,
  - monitoring of the employment of people successfully completing training provided at the training centre,
  - accommodation, boarding and transportation services to people participating in training,
- service tasks, such as
  - labour market and employment information supply and career orientation, job search counselling,
  - adult training quality management consultation,
  - pedagogical services,
  - competence and preliminary knowledge tests,
  - professional suitability tests for participating in professional training.

The training centre is managed by a director, appointed by the Minister upon the proposal of the Director General of the National Office for Employment and Social Affairs and the State Secretary of the Ministry of Social Affairs and Labour, in agreement with the other founding organisations of the training centre. The appointment is also withdrawn by the Minister. All other employer's rights towards the director are exercised by the Director General of National Office for Employment and Social Affairs.

5. Employment-related tasks of local governments and social benefits available for the unemployed

The employment tasks of local governments and the effective regulations on support of people without any income from work and eligible for support on a means tested basis are contained in Act III of 1993 on Social Administration and Social Services and Gov. Decree No. 63/2006 (III.27) Korm. on the detailed rules of application for and establishment and disbursement of financial and in-kind social benefits, issued for the implementation of the Act. On the basis of these legal regulations, the local governments issue their own bylaws defining the detailed rules for performing their tasks specified by law and the establishment and disbursement of social benefits, in line with the local characteristics.

5.1. Regular social benefit

Before 1 May 2000, local governments were able to provide income supplement to unemployed people who had received unemployment benefits before and did not gain eligibility for any other benefit after the termination of the disbursement period of the unemployment benefits based on the provisions of the Employment Act, provided that the per capita income in their families was not higher than 80% of the minimum old-age pension ever. The income supplement of the unemployed was terminated on 1 May 2000 with an amendment of the law transforming the unemployment benefit system. Once this income supplement instrument was cancelled, unemployed persons unable to find a job during the unemployment benefit period even with the involvement of the Public Employment Service could apply to the local government for regular social benefit.

The regular social benefit is a kind of support provided to people of active working age in a disadvantaged situation on the labour market and without an income securing the living and their families. Pursuant to EC decree 2004/38/EC, the regular social benefit can be allocated to citizens and their relatives members of the EU having the right of free movement and residence, who are residing in Hungary for no more than 3 months.

*For the purpose of social benefits, a person of **working age** is a person over the age of 18, but below the applicable retirement age, and persons who have not completed 62 years of age yet.*

The local government (from 1 January 2007, the clerk of the local government) may establish regular social benefits to **unemployed or supported job seekers or job seekers with impaired health**, whose living, or the living of whose family is not secured in any other way. Only one person is entitled to regular social benefit in one family at one time.

III. Organisations of employment-related interest reconciliation

The state does not wish to influence the labour market processes alone. When regulations are established that have an impact on the operation and maintenance of the market, the state involves its social partners, i.e., the representatives of employers and employees. Thus, the principle of the tripartite system is used in the regulation of the labour market, which fundamentally determines the development and operation of the institutional system.

1. National Interest Reconciliation Council

The Government discusses employment policy issues of national importance with the interest representation organisations of the employees and employers at the *National Interest Reconciliation Council* (hereinafter: OÉT).

2. Steering Committee of the Labour Market Fund

The *Steering Committee of the Labour Market Fund* (MAT) is also a tripartite body consisting of the representatives of employers, employees and the Government. It exercises rights and fulfils obligations related to the Labour Market Fund.

The members of MAT on behalf of the employers are nominated by the representations of the national associations of employers in the National Interest Reconciliation Council, and on behalf of employees, the representatives are nominated by the national associations of employees in the National Interest Reconciliation Council, taking into account the proportions of the employer and employee contributions paid by the parties represented by them, unless it is agreed otherwise. The members of MAT are appointed and withdrawn the Minister. With regard to the members representing the Government, the Minister responsible for public finances proposes the appointment and recall of one member while, with regard to the remaining five members, the Minister responsible for employment policy decides on their employment and recall within his own competence. The mandate of the body is for four years.

3. Labour councils

Employment policy interest conciliation and consultation with social partners functions not only at national, but also at regional level in Hungary. The relevant forum for such discussions is the *labour council,* in which employers, employees and local governments are represented.

The labour council

- reviews the principles of allocation of the assets of the employment segment of the Labour Market Fund available within its area of competence and the relative proportions of various support types,
- monitors and evaluates the allocation of the resources of the Labour Market Fund within its area of competence,

- promotes and reviews short- and long-term programmes related to the employment situation of its area of competence and monitors their implementation,
- reviews the operation of the regional PES centre,
- requests information from the Director General of the regional PES centre about the use of the Fund, the labour market programmes and operation of the PES centre,
- exercises its right to prepare a preliminary review of the appointment and recall of people in managerial positions of the Public Employment Service,
- performs its tasks specified under other legal regulations.

The employment concept of the labour councils is truly reflected by their opinion formed on the proportions in which the PES centre divides the decentralised resources of the employment fund segment available for the region between the PES centre and the individual support categories, and the principles, criteria and former evaluations used to lobby for the increased use of a particular instrument.

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