

Changes in delegation of the employees

in 2020

After nearly two years, the works on amendment of directive 96/71/EC regulating delegation of employees within the scope of services provision. The content of the new regulations was agreed and approved by the European Parliament and the Council.

The Directive will be applied presumably in 2020

Below, we present two key changes for which the employers delegating employees to work in other countries of the European Union should be prepared.

Until the moment of adopting the so called mobility package (regulations with particular importance for the transport sector), amendments of the delegation directive will not refer to the road transport sector which was particularly important to the Polish carriers. Finally, the scope of application of the amended regulations to the transport sector will be specified in the so called mobility package.

EQUALIZATION OF PAYMENTS OF THE DELEGATED EMPLOYEES

The delegated employees, from the first day of delegation, should receive at least the same salary for work as the employees working directly in the accepting country, which includes not only the basic salary, but also benefits including, among others, allowances for working overtime.

In order to determine whether a delegated employee receives at least the same salary as an employee directly employed in the accepting country, benefits connected with delegation designated for covering the costs connected with delegation (for example the costs of travel, catering, accommodation).

The provisions of the currently applicable directive **96/71/EC** require only that the delegated employees received at least the minimum salary applicable in the accepting country.

EQUALIZATION OF EMPLOYMENT TERMS AFTER 12 MONTHS

The period of delegation will be limited to 12 months (or 18 months after obtaining a special permit). After that period, the employment relation of the delegated employee will be generally subject to all standards and requirements of the labour law applicable in the accepting country.

The work duration of the delegated employees in order to replace another employee at the same job will be added. The above means that in relation to an employee delegated in order to replace another employee on the same position, equalization of the employment terms will take place if the total delegation period of both employees exceeds 12 (18) months.

In light of the current legal situation, the duration of the delegation of an employee generally does not affect the scope of standards or requirements of the labour law of the accepting country which are applicable to it.



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