

# REVIEW OF THE NEW LABOUR LAW

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**Abstract:** *The aim of this paper is to determine what novelties had been introduced by the new Labour Law which came into force 29 July 2014. The issues that the author of this paper entertains are as follows: how this law differs from the previous one, how it was accepted by the public, what was improved by this law and what its shortcomings. The author considers these issues through analysis, comparison with other laws of the leading countries and through the statistical method.*

**Keywords:** *Labour Law, a trade union, wages, annual leave, employer, employee*

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## 1. INTRODUCTION

As in previous years, when the issues of importance to the rights of workers were heavily debated, so again this year, the public reaction was not missing. Workers' strikes in front of the government, ministries and other state agencies were everyday scenes both in the capital of the Republic of Serbia and in other cities.

## 2. EMPLOYMENT CONTRACT

The employment contract shall be considered concluded when it is signed by the employer and the employee, and it may be concluded for a definite or indefinite period of time. The employer has the right to conclude a contract with the employee on a trial period which cannot last longer than six months. The novelty is that fixed-term work may be extended for a period of 24 months, unlike the previous law which stipulated that fixed-term work could not last longer than one year. This can have a double effect, on the one hand people are motivated to give their best in order to be employed on indefinite basis and thus gained legal security and a number of other opportunities and benefits in the form of taking the loan. It is now established practice that even in supermarkets where cards for extended purchases are issued they make difference with regard as whether the person to whom the card is issued is employed for a definite or indefinite period. Depending on that, supermarkets issue cards with different payment deadlines, advantages, benefits, etc.

On the other hand, fixed-term work installs in workers certain level of fear and uncertainty as to his working position in the future and the possibility of termination of employment after the expiry of a period of two years. It is a common practice in Serbia that employers - even after the expiry of this period which used to be a period of one year and now is the period of two years – still fail to conclude a contract with employees for an indefinite period. Data from March last year showed that out of around 230,000 workers employed on fixed-term basis well over 44,000 employees work for a definite period longer than three years.

Number of workers	Period	Participation
9.536	Less than one month	4
46.461	1 to 3 months	20.1
45.635	4 to 6 months	19.6
40.787	7 to 12 months	17.5
17.268	13 to 18 months	7.4
11.575	19 to 24 months	5
16.938	25 to 36 months	7.3
45.350	More than 3 years	19.1

**Table 1.** Duration of fixed-time employment

A particularly sensitive issue is the issue of pregnant women and their status; question remains as to what happens in the case a woman is recruited for a limited two-year period and, let's say, within the duration of that employment she takes maternity leave. In such a situation, the employer cannot terminate the contract of employment during maternity leave, leave for child care or leave for special child care. Such termination of the employment contract is null and void, provided that the employer knew of the above circumstances.

### 3. WORKING HOURS

Working hours can be full and abbreviated. Full-time is 35-40 hours per week. During the day, employees cannot work more than 12 hours per day including overtime. In comparison, let us review the Table 2 which compares working hours in European countries.

Working hours	Number of working hours per week
Greece	40-48
Portugal	41,6
Belgium	40,9
Spain	41,9

**Table 2.** Number of working hours

Does greater number of working hours per week brings better results or takes some negative consequences, fatigue workers, less constructive and concentration? Stimulation of overtime contributes to reducing employment: the more one worker does, the less the need

to recruit new people. The shortest working hours in Europe are in France which has legally regulated working hours to 35 hours per week. Even though to us it sounds incredible, in order to increase worker productivity, French workers are prohibited from working on a computer and responding to phone calls from employers after hours. In our country, as in many other European countries, there is standby, or after hours, employees must respond to service calls, respond to business emails, etc. In the Slovak factory of Peugeot and Citroen 'PSA' 'there was a strike of 900 workers who were in favor of a reduction of working hours and the elimination of the third shift. Although their employers threatened cancellation of the employment contract, at the end they still came out to meet and reduce working time without prejudice to their wages. In addition, there have been more and more strikes in other countries due to dissatisfaction of workers with their working time.

Certain activities that have greater accountability are particularly sensitive to the issue of working hours. It has been established that one in five plane crashes are associated with pilot fatigue, which is why pilots are seeking regulations which must define the number of weekly flights in order to adapt to scientific and medical studies to preventive prevent new disasters occur in the form of plane crash due to pilot fatigue. During their working time employees who work for more than 6 hours are entitled to a 30-minute rest, or 15 minutes if they work for less than 6 hours in the course of the day. Employees who work more than 10 hours a day are entitled to a minimum 45-minute break during work. Between two working days, rest must last at least 12 hours. Further, the novelty of the new Law is that apart from the premises of the employer work can also - thanks to new modern technologies - be performed from home. Employees who perform their job from home have all the rights - the right to meal allowances, bonuses, vacation.

#### **4. ANNUAL LEAVE**

An employee is entitled to annual leave of at least 20 working days. Holidays cannot be transferred from the old employers, but the novelty is that workers have the right to annual leave after at least one month of continuous operation. [*The previous Law stipulated that the right to holidays is acquired after one year of continuous work*] An employee may not waive the right to annual leave or replace this right for financial compensation. Holidays can be used single or in multiple parts. If the worker has not used in the current year the whole vacation, he may use up the remaining days use until June 30 of the next year. Even in this regard we lag behind other countries. Vacation in Germany and Denmark lasts for 30 days, 28 days in Italy, in Greece 23, Belgium and France 25 days. Our neighbors in B& H, as well as in Montenegro are entitled to 18 working days of vacation plus a day for every five years of service. The most industrious people in the world - the Japanese - use no more than 10 working days of vacation.

#### **5. MATERNITY PROTECTION**

We mentioned already that pregnant women are specifically protected from termination of the employment contract. However, the issue has caused controversy in the public is that the employer might find other ways to dismiss a pregnant woman, for example, if she does not fulfill her obligations or does not achieve the expected results of the work. This of-

ten happened in the past. During 2013, the labor inspector received over 100 complaints by pregnant women because of the unlawful termination of employment.

Working women have under the new law the following rights:

The right to leave for childbirth and pregnancy of 365 days

The maternity leave may commence earliest 45 days and obligatory 28 days before the time scheduled for delivery

A working woman is entitled to a 2-year maternity leave for the third and each subsequent child born. The same rights go for every employed woman who gives birth to twins or three or more children

For employed woman who returns to work before a full year has lapsed the employer is required to provide one or more pause lasting for 90 minutes, or a 90-minute reduction of working hours when she works for six hours or more, to be able to breastfeed her child.

## 6. SALARY

Employees are guaranteed equal pay for work of equal value. An employee is entitled to the minimum wage for standard performance and time spent at work. [*The minimum wage is determined on the basis of the minimum wage established in accordance with this law, time spent at work and the taxes and contributions paid out of earnings*] In Serbia, for the month of September the minimum wage was 20,240 dinars net.

Average salaries by municipality		Average salaries by sectors	
Novi Beograd	47.142	Financial brokers	72.032
Lazarevac	45.926	Production of tobacco products	68.290
Surčin	45.234	Activities based on membership	66.743
Vračar Beograd	43.307	Air traffic	60.434
Račka Šumadijski okrug	16.131	Insurance and pension funds	54.464
Kuršumlija	15.242	Manufacture of leather and leather products	15.882
Svrljig	15.172	Manufacture of radio, tv and communication equipment	15.529

**Figure 3.** The average salary in Serbia

On the website „Your attitude” survey was conducted on the position of employees in Serbia.

The largest number of respondents said that unemployment is the main problem in Serbia, followed by the behavior of employers and non-enforcement of labor legislation. It is encouraging that as many as 51.8% of respondents are employed on indefinite basis, 15.6% were employed on fixed-term basis, while 10.94% are unemployed. Regarding the workplace, the largest number, over 30% said that they were employed in private domestic companies, while 23 percent work in the state sector.

## 7. TERMINATION OF EMPLOYMENT CONTRACT

The Law explicitly lists all the ways of termination of employment:

At least 15 years of service and 65 years of age insurance, unless otherwise agreed between the employer and the employee

Through agreement between worker and employer

At the request of a parent or guardian of the employee for a person under the age of 18

Unilaterally by the employee or employer

Death of Employee

as well as through other ways for termination listed by the Law.

Of all these conditions of termination of employment, the most controversial is certainly the one that occurs due to cancellation of the employer, i.e. termination. In particular, the notice period is debatable, which by law is at least 15 days and not longer than 30 days. However, we often see that there are labor contracts in which only the period of notice which the worker must be respected is defined. That term is often longer than the specified 30 days bringing the worker in an unfavorable position. For example, let us consider a situation where a worker dissatisfied with the present job gets a better offer from another employer. The worker cannot simply terminate the employment before the period for which he is committed. On the other hand, the worker loses his chance to take on a new job more favorable for him because virtually no employer will not wait 2 or 3 months or more until the contractual deadline for the termination of employment was respected (the emphasis is on the word 'contractual' because it is often in practice inconsistent with the statutory termination deadline). Many employees even sign blank resignations, aware of how difficult it is to find a job in Serbia. Such contracts are illegal. However, it is rare that a worker decides to notify labor inspection. He needs to prove that the contract was signed under duress, against his will, which is very difficult to prove.

Reasons for termination of employment are also enumerated: if the employee does not perform well enough, if the employee is convicted of a criminal offense at work or in connection with work, if the employee does not respect work discipline, etc.

## 8. CONCLUSION

Novelties that have been most criticized in the new law are: extended fixed-term work, insufficient protection of pregnant women from the termination of employment contract, past performance which is calculated only for the work at the current employer and not with the previous employer. Problematic is also the possibility of "renting" of workers to another employer, i.e. employee can be sent to work for another employer without the employee's consent, for a certain period. However, we know that in practice we often have discrepancies between the Law and every day practice, i.e. provisions of the law are not observed and implemented consistently. Therefore, it is essential to find the right track, and that workers comply with their obligation to work; on the other hand, it is essential that employers value the work of their employees and do not seek to put their own interests above the collective interests and success of the company in which they work. Only through teamwork and mutual respect can real results be achieved, to the full satisfaction of both workers and employers.

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