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Filip Bojić

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FILIP BOJIC

UNIVERSITY OF BELGRADE

The employment area, as well as the insurance rights in the case of unemployment in the Republic of Serbia is regulated by special Law on Employment and Unemployment Insurance, adopted in 2009. It should be kept in mind that the model of the German Federal Employment Agency was accepted in Serbia according to which the national agencies deal with active measures, that is, employment affairs, as well as passive measures, implementation of insurance in case of unemployment¹. This concept differs from the French model, where national employment agency can only deal with employment and active employment measures.² In the middle of December 2017, the National Assembly of the Republic of Serbia adopted in urgent procedure the amendments to the Law on Employment and Unemployment Insurance, without public debate in which representatives of the social partners would participate.³

As the basic goals for adoption of the Amendments to the Law, the legislature states the provision of full effectiveness in the functioning of the National agency and the reduction of costs and a more detailed regulation of certain issues, for the purpose of more effective implementation of the regulations in practice.⁴ The largest number of amendments refers to the payment of unemployment benefits, paid to insured persons who faced the social risk of unemployment, but who fulfill the legal requirements for that social welfare. This welfare is of limited duration and is paid to insured persons who have experienced

1 B. Lubarda, *Labor Law, discussion on social dialogue and dignity at work*, Faculty of Law, University of Belgrade, Belgrade, 2012, p. 309.

2 *Ibid.*

3 The above amendments were published in the Official Gazette of the Republic of Serbia n° 113/2017.

4 Proposal of the Law on Employment and Unemployment Insurance, Rationale, p. 4 is available on the website of the National Assembly of the Republic of Serbia:
http://www.parlament.rs/upload/archive/files/cir/pdf/predlozi_zakona/3781-17.pdf

unwilling unemployment without their fault.⁵ The right to monetary compensation in case of unemployment is also guaranteed by the Constitution. The Constitution of the Republic of Serbia in the Article 69 stipulates that the employee has the right to compensation in case of temporary unemployment.⁶ This is an additional reason why the legislator has the obligation to provide more precisely the conditions under which the right to unemployment benefit will be realized and acquired.

The biggest legal novelty is the introduction of the concept of daily monetary compensation, which is determined by multiplying the basis of daily monetary compensation by personal coefficient.⁷ The said term is implemented into national regulations in order to precisely determine the monthly amount of the monetary compensation, which is the product of the daily monetary compensation and the number of calendar days in the month for which the right is exercised and the payment of the welfare is made. It should be noted that the basis of daily monetary compensation includes the contributions for health, pension and disability insurance in the amount of RSD 1.000 (8.5 EUR). The above personal coefficient is the ratio between the total salary, that is, fringe benefit, the insurance base and the amount of the agreed fee in the last 12 months preceding the month in which the employment was terminated, i.e. the ratio between the insurance and the average annual salary per employee paid in the Republic of Serbia according to the latest data published by the authority in charge of statistics in the moment of exercising the right to a monetary compensation.⁸ However, it seems that the introduction of daily monetary compensation will only further complicate the procedure for exercising the right to monetary compensation

5 According to the provisions of the Law, the unemployment benefits will be paid to the unemployed person for three months, if he/she has one to five years of service, six months if he/she has between five to 15 years of service, nine months in case of 15 to 25 years of service, and twelve months in case of employment service exceeding 25 years and exceptionally 24 months, if the unemployed needs up to two years to fulfil the first condition for exercising the right to pension, in accordance with the regulations on pension and disability insurance. Article 72 of the Law on Employment and Unemployment Insurance (Official Gazette of the Republic of Serbia n° 36/2009, 88/2010, 38/2015, 113/2017 and 113/2017 - other law).

The legislator has contemplated that an unemployed person, among other things, would be entitled to a monetary compensation in the event of termination of employment or the termination of compulsory insurance if the termination of employment was due to the termination of an employment contract by the employer, but only for termination reasons concerning the employer's needs (technological, economic or organizational changes) or reasons related to insufficient knowledge and skills of the employee. In addition, the insured will exercise the right to compensation for termination of employment for a definite period of time, temporary and occasional work, probationary work, as well as due to the termination of the office to which he/she was elected or appointed, provided that he/she did not exercise the right to job protected time pursuant to the provisions of the Labor Law, 67 Law on Employment and Unemployment Insurance.

6 Art. 69, para. 3, the Constitution of the Republic of Serbia ("Official Gazette of the Republic of Serbia" n° 98/2006).

7 Art. 69, Law on Employment and Unemployment Insurance.

8 *Ibid.*

in case of unemployment, bearing in mind that the duration of the payment of the welfare has so far been referred to months rather than days. It is also a novelty that the Law, in the similar way as the regulations on pension and disability insurance, determines the lowest and highest amount of old-age and disability pension⁹ establishes the lowest and highest monthly amount of unemployment benefit, which can neither be lower than RSD 22.390 (188 EUR) for the entire calendar month, nor higher than RSD 51.905 (437 EUR). It was previously envisaged that the monetary compensation should be determined in the amount of 50% of the base, that is, the average salary paid to the unemployed in the last 12 months preceding the month in which the insurance was terminated, and that it can not be higher than 160% or lower than 80% of the minimum salary determined in accordance with the labor regulations for the month in which the payment of the monetary compensation is made.¹⁰ The base for daily monetary compensation, as well as the lowest and highest monthly amount of monetary compensation, will be adjusted as of January 1, 2019, with the annual consumer price index in the calendar year preceding the year in which the adjustment is made.¹¹

It should also be noted that on June 1 in the last year, the provisions of the new Law on Administrative Proceedings entered into force¹², and having in mind that the right to unemployment benefit is achieved by submitting a request to the competent branch of the National Employment Agency, and in accordance with the provisions of the law regulating the administrative procedure, it was necessary to harmonize the provisions of the Law on Employment and Unemployment Insurance with the provisions of the new Law on General Administrative Proceedings. A new paragraph was added to the article regulating the procedure for exercising the rights from compulsory insurance, which stipulates that

9 The Law on Pension and Disability Insurance of the Republic of Serbia provides for the payment of the lowest and the highest pensions. Regardless of the amount determined according to the implemented formula for determining the amount of old-age or disability pension, the insured is entitled to the lowest amount of the pension provided for in the provisions of the Act. Also, the highest amount of pension is determined in such way that the personal coefficient can't exceed 3.8. This model rests on the idea of providing a minimum of social security after the occurrence of the social risk of old age, in accordance with the basic principle of social law, the principle of solidarity. Article 76-78, Law on Pension and Disability Insurance (Official Gazette of the Republic of Serbia n° 34/2003, 64/2004 - decision of the USRS, 84/2004 - other law, 85/2005, 101/2005 - other law, 63 / 2006 - Decision of the USRS, 5/2009, 107/2009, 101/2010, 93/2012, 62/2013, 108/2013, 75/2014 and 142/2014).

10 Article 69 and Article 70 of the Law on Employment and Unemployment Insurance (before amendments of 2017). The mentioned amount of the minimum wage established on basis of working hours excluding taxes and contributions, according to the Labor Law is discussed by the Social and Economic Council, a tripartite body composed of six representatives of government, six representatives of representative associations of employers and six representatives of the representative trade unions. The amount of the minimum wage shall be determined for the calendar year, not later than September 15 of the current year, and shall apply from January 1 of the following year. The amount of minimum labor cost for 2018 in the Republic of Serbia is 143 dinars (1.20 EUR). Article 112 of the Labor Law ("Official Gazette of the Republic of Serbia", n° 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - decision of the US and 113/2017).

11 Article 70 of the Law on Employment and Unemployment Insurance.

12 Official Gazette of the Republic of Serbia, n° 8/2016

the appeal filed on the first instance decision on the rights of the unemployed person in the first instance does not postpone its execution.¹³

In addition to the National Employment Agency, employment services in the Republic of Serbia can also be rendered by private employment agencies which can be established by legal entities and natural persons.¹⁴ A work permit is issued to the Agency by the Ministry on the basis of a written request, but only if the agency meets the requirements regarding the spatial and technical equipment and professional qualifications of the employees. Explicitly, the law also provides for obstacles, due to which a particular person is not eligible to carry out employment activity, i.e. establish employment agencies. The legislator has contemplated that the agency shall not be established or operated by a person sentenced for a criminal offense to an unconditional imprisonment of at least six months, in the period of three years after serving the sentence, or the founder of the agency to whom the license for performing employment activity has been revoked, within three years from the date of the license revocation.¹⁵ Bearing in mind that in practice the employment activity was performed by unregistered commercial entities, the amendments to the Law envisage another obstacle preventing the establishment of an agency by a person whom the competent inspection authority found that it was performing employment activity as an unregistered business entity.¹⁶ In this case, such person is not allowed to establish the agency for three years following the effective date of the act made by the competent inspection authority. According to the aforesaid, it is concluded that all indicated obstacles are temporary and effective for three years. The new provisions provide for better protection of citizens of the Republic of Serbia who use agency services for mediation in employment abroad because the practice has proved so far that in the majority of cases these services were provided by unregistered agencies.¹⁷

Finally, according to official data, the unemployment rate in the Republic of Serbia in 2017 was the lowest in the last few years and amounted to 12.9% (data from December 2017), but one has to bear in mind that in the past years a large number of citizens left the country in search of better employment, and the fact that National agency has deleted from the records the persons who do not fulfill their legal obligations to the agency on regular basis, which is reflected primarily in the obligation of reporting to the National Employment Agency and participating in active employment policy measures. There is a hope that the legislator's expectations will prove in practice as justified and that newly adopted provisions of the Law will affect further reduction of the unemployment rate in Serbia, and in particular the reduction of the unemployment rate of jeopardized categories which include women, people under the age of 30 and people over the age of 50.

13 In the legal system of the Republic of Serbia, the second instance body, which decides on the complaints of the insured, is the director of the National Employment Agency, whose decision is final, with the possibility of initiating an administrative dispute before the competent court against the final decision of the National Employment Agency. Article 80 of the Law on Employment and Unemployment Insurance.

14 The law stipulates that private agencies shall not deal with the employment of minors, as well as employment at high risk jobs.

15 Art. 22 of the Law on Employment and Unemployment Insurance.

16 *Ibid.*

17 A proposed Law on Employment and Unemployment Insurance, explanation, p. 11. Available on the website of the National Assembly of the Republic of Serbia
http://www.parlament.rs/upload/archive/files/cir/pdf/predlozi_zakona/3781-17.pdf