

# News Flash

December 21, 2021



**Employment contract termination  
starting 65 years of age in Slovakia**

## Employment contract termination starting 65 years of age in Slovakia

An amendment to the Labour Code brought, besides changes related to financial contribution for meals, telework, housework and part-time job for persons older than 15 years which are valid from March 1, 2021, another change that will come into effect on January 1, 2022. This change allows the employer to terminate an employment relationship with an employee who shall reach 65 years of age and simultaneously becomes entitled to retirement pension. What does it mean in practice?

From January 1, 2022, the provision of § 63 par. 1 of the Labour Code enabling the employer to dismiss the employee will include a new letter - "f) the employee has reached the age of 65 and the age for entitlement to a retirement pension". At the same time, the related provisions of the Labour Code will be changed, namely those related to the termination of employment by agreement and severance pay. We have summarized the most common questions related to this change.

***Update:** On Wednesday, December 15, 2021, the Constitutional Court of the Slovak Republic decided to **suspend the effectiveness** of Article 63 section 1(f) of the Labour Code, which allowed employers to terminate the employment relationship with an employee who had reached the age of 65 and at the same time became entitled to a retirement pension. This decision of the Constitutional Court of the Slovak Republic means that the provision of the law in question will not apply from January 1, 2022 and employers will therefore not be able to use it. In the following months, the Constitutional Court will decide whether the given provision of the Labour Code is in accordance with the Constitution of the Slovak Republic and will therefore enter into force or is not in accordance with the Constitution of the Slovak Republic and will be deleted.*

### **What if I am not entitled to a retirement pension? Can my employer terminate employment with me because I am over 65?**

No. Both the condition for age and condition for entitlement to a retirement pension must be met at the same time. If one of the conditions is not met, the employer can't terminate the employment with you according to this provision.

### **What does it mean for me if the employer according to § 63 par. 1 letter f) of Labour Code will terminate an employment with me after January 1, 2022?**

If your employer terminates an employment with you according to this provision, on the first day of the month following the month after you received the termination, the notice period begins to run. The basic notice period is 1 month. However, if you worked for the employer more than 1 year,

the notice period is 2 months, during which you shall stay and perform your work according to your employment contract. If you don't stay with your employer during the notice period, he is entitled to financial compensation up to the amount that is the product of your average monthly earnings and the length of the notice period, if you agreed on this financial compensation in the employment contract. The agreement on financial compensation must be in a written form, otherwise it is invalid. Therefore, we recommend you checking whether it is included in the employment contract.

### **The employer doesn't want to give me notice but wants me to sign a termination agreement with him. What should I be careful of?**

In the case of concluding an agreement on termination of employment due to reaching the age of 65, provided that entitlement to a retirement pension arises, this reason must be

clearly stated in the agreement, so insist that the employer must include it in the agreement.

### **Am I entitled to a severance pay? If yes, then in what amount?**

The employee with whom the employer terminated the employment due to reaching the age of 65 and meeting the conditions for entitlement to the retirement pension, is entitled to the severance pay depending of the number of years worked for the employer on the date of termination of employment. The severance pay shall be paid in a different amount when terminating the employment by notice and agreement.

In case of termination by the employer due to § 63 par. 1 letter f) of the Labour Code, the employee is entitled to severance pay at least in the amount of:

- average monthly earnings, if his employment relationship lasted 2 – 5 years,
- twice the average monthly earnings, if his employment lasted 5 – 10 years,
- three times the average monthly earnings, if his employment lasted 10 – 20 years,
- four times the average monthly earnings, if his employment lasted at least 20 years.

In case of concluding an agreement on termination of employment due to above-mentioned reason, the employee is entitled to severance pay at least in the amount of:

- average monthly earnings, if his employment relationship lasted less than 2 years,
- twice the average monthly earnings, if his employment lasted 2 – 5 years,

- three times the average monthly earnings, if his employment lasted 5 – 10 years,
- four times the average monthly earnings, if his employment lasted 10 – 20 years,
- five times the average monthly earnings, if his employment lasted at least 20 years.

The word “at least” in the given provision of act means, that the employer may provide the employee a higher severance payment than he is entitled to according to the act. Thus, only the lower limit is set that must be respected.

### **I had an agreement with my employer in relation to upgrading my qualifications, but he wants to terminate the employment with me before the end of the period for which I have undertaken to remain with him. Am I obliged to reimburse him for the costs incurred?**

The employer may conclude an agreement with the employee, by which the employer undertakes to allow the employee to upgrade his qualification by providing him a time off work, wage compensations and reimbursement of other expenses related to studies, and the employee undertakes to remain with the employer after the end of his studies for a certain period of time or to compensate his expenses related to the studies even if the employer ends his employment before the end of his studies. If the employer terminates the employment with you by notice or agreement due to reaching the age of 65 at the same time as entitlement to a retirement pension arises, you are not obliged to reimburse the employer’s expenses that incurred due to upgrading your qualification.

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