



MINISTRY
FOR NATIONAL ECONOMY

The Posting of Workers Directive versus Illegal Work in Hungary

International Conference
„Challenges of Labour Law in context of Maintaining and Increasing
of Employment in the V4 Countries”
Bratislava, 26 February 2015

Section 299 of Act I of 2012 on the Labour Code (LC) specifies that

this Act serves the purpose of conformity with the following legislation of the Communities:

(...)

f) Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services;

(...)

m) Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work.

„Hard nucleus” rules in LC

Section 295

(1) If a foreign employer employs a worker in the territory of Hungary under agreement with a third party, with the exceptions set out in Subsection (3), Hungarian law shall apply to such employment relationships in terms of:

- a) maximum working time and minimum rest periods;
- b) minimum duration of annual paid leave;
- c) the amount of minimum wages;
- d) conditions for temporary agency work as per Sections 214–222;
- e) occupational safety;
- f) conditions of employment or work by pregnant women or women who have recently given birth, and of young people; furthermore
- g) the principle of equal treatment, including the provisions of a collective agreement with extended scope as pertaining to the employment relationship in question.

Problems in the application of the Posting Directive

- Hungary is mainly a sending and not a host country
- Posted workers are not aware of their rights – we inform them
- Letter-box companies in neighboring countries vanish quickly
- Hungarian workers recruited, employed but not/not fully paid - no accurate information of the employer
- Internal Market Information System usually works well

Special Provisions on Temporary Agency Work

- Chapter XVI of the LC regulates the special provisions on temporary agency work
- LC Section 219 specifies that the basic working and employment conditions of temporary agency workers shall be, for the duration of their assignment, at least those available to the workers employed by the user enterprise under employment relationship.
- In spite of the above rule, statistics show that the agency workers' salaries are less than the national average (however, much more than the minimum wage).

As regards the payment of wages and other benefits, the provisions on equal treatment shall apply **as of the one hundred and eighty-fourth day of employment** at the user enterprise with respect to some workers:

- a) who is engaged with a temporary-work agency in an employment relationship established for an indefinite duration, and who is receiving pay in the absence of any assignment to a user enterprise;
- b) who is recognized as a long-term absentee from the labor market;
- c) who is working within the framework of temporary agency work at a business association under the majority control of a municipal government or public benefit organization, and a registered public benefit organization.

Thank you for your attention!

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