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JANUARY 2025

TOPICS

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Every employee will be able to ask the employer for information on average pay – by gender – in the group of employees performing equal work or work of equal value. This right is granted by the Pay Transparency Directive

Polish employers more and more often introduce solutions to facilitate work for persons with ADHD, e.g. adjust work duties to their predispositions and interests, support in prioritising tasks and work organisation, allow more frequent breaks

Employers should perform an analysis of occupational health and safety conditions. It is worthwhile to make a checklist of items to be verified

In February another category of Ukrainian citizens may lose access to consular services

EMPLOYERS MAY RECOVER MONEY IN CRIMINAL PROCEEDINGS TOO, E.G. BY INTERIM INJUNCTION AND MOTION FOR REDRESS OF DAMAGE

Damian Tokarczyk, PhD
Advocate

Redressing of damage caused by a crime is one of the main functions of criminal law. In a criminal trial there are many measures which may help employers obtain compensation.

Remember about the security

Suspects and defendants may dispose of their assets, they may try to hide them or pass them on to their next of kin. However, a prosecutor may start looking for assets of the alleged offender even before presenting the charges. In order to limit the loss of the victim, a decision on security on property may be issued. The prosecutor may, for example block funds in a bank account, seize shares in a company or demand a compulsory mortgage.

If a company has lost funds in a bank account (e.g. has fallen victim to phishing), a faster track can also be taken. Money in the bank account may be considered material evidence. Once it has been established unnecessary for the proceedings, the prosecutor may demand that it is returned to the victim. There is not need to wait for the criminal proceedings to end.

Forms of redressing the damage

In criminal proceedings the prosecutor and court do not analyse in detail the amount of damage or interest. The victim should ensure precise calculation of his or her damage and file a request for redress. Recovering the funds by the victim may have different forms:

- repayment of profits gained by the offender,
- compensation or non-pecuniary damages,
- vindictive damages.

Until the sentenced person redresses the damage caused by the crime, the conviction is not spent. The victim may also count on the assistance of the prosecutor and public authorities in the enforcement of the awarded amounts. Additionally, failing to fulfil the obligation to redress damage by the convicted person may even be the reason to activate the sentence of imprisonment. These risks may additionally urge the offender to return the funds to the victim.

EVERY EMPLOYEE WILL BE ABLE TO ASK THE EMPLOYER FOR INFORMATION ON AVERAGE PAY – BY GENDER – IN THE GROUP OF EMPLOYEES PERFORMING EQUAL WORK OR WORK OF EQUAL VALUE. THIS RIGHT IS GRANTED BY THE PAY TRANSPARENCY DIRECTIVE

Natalia Krzyżankiewicz
Advocate

Employees will be able to enquire in person or through employee representatives (trade unions or other employee representatives).

Employers will be obliged to provide information to an employee within “reasonable time” – no longer than two months. It will be possible to apply for additional explanations, if it turns out that information provided by the employer is imprecise or incomplete. Employers will be obliged to remind employees once a year about their right to receive information concerning the remuneration and the steps which need to be taken to do so.

The new law will enable an employee to find out how his or her pay compares to that of employees of the same sex (performing equal work or work of equal value) and those of the opposite sex.

National regulations (for the draft of which we are still waiting) should determine more precisely what the minimum number of employees in a comparative group should be, so that the remuneration of individual employees is not disclosed.

In preparation to the new regulations, employers should consider in what way the process of requesting and providing information should be organised, e.g. through which system the employees will be informed about their right to make requests, in what form the feedback will be provided, and who will be responsible for its preparation.

POLISH EMPLOYERS MORE AND MORE OFTEN INTRODUCE SOLUTIONS TO FACILITATE WORK FOR PERSONS WITH ADHD, E.G. ADJUST WORK DUTIES TO THEIR PREDISPOSITIONS AND INTERESTS, SUPPORT IN PRIORITISING TASKS AND WORK ORGANISATION, ALLOW MORE FREQUENT BREAKS

Zuzanna Rosner
Adttorney-at-law

Employers are not obliged to provide different working conditions for persons with ADHD than for neurotypical employees. However, since persons with ADHD may experience various difficulties at work (e.g. get easily distracted, are sometimes hyperactive, impulsive, may experience problems with work organisation, fail to meet deadlines), employers decide to support them.

Intensifying the activities of employers is related, among other things, to an increase in the number of adults being diagnosed. Perhaps thanks to higher awareness and latest diagnostic tools. Sceptics claim however, that diagnoses are hasty and unnecessary.

Labour courts in Poland do not deal with neurodiversity yet (including ADHD). In the near future it may change, in particular because in some other jurisdictions (e.g. in the United Kingdom) such cases are on the increase. It cannot be ruled out that courts will take into consideration this aspect, e.g. when assessing the validity of reasons for terminating employment.

Last year an employee with ADHD won a discrimination case against Royal Mint before employment tribunal in Cardiff. The tribunal upheld claims of a former HR director that she had made the decision to resign in a haste and on an impulse typical of a person with ADHD (i.e. there was a cause-and-effect link between her health and the above decision). The employer did not allow her to withdraw her resignation, although it was fully aware that the employee has been diagnosed and experienced difficulties.

EMPLOYERS SHOULD PERFORM AN ANALYSIS OF OCCUPATIONAL HEALTH AND SAFETY CONDITIONS. IT IS WORTHWHILE TO MAKE A CHECKLIST OF ITEMS TO BE VERIFIED

Monika Czekanowicz
Attorney-at-law

The analysis of occupational health and safety does not have to be extensive, it should not copy the contents of source documents, either. Ideally it will be in the form of a presentation which will present in a concise manner all issues related to working conditions and compliance with health and safety regulations.

An example of a checklist of issues which should be taken into account in health and safety analysis:

- number of employees, taking into account persons working under civil law agreements and on the B2B basis,
- assessment of the conditions in the workplace and the exposure of employees to risk factors;
- technical condition of the working equipment and tools;
- health and safety training and any specialist training, e.g. first aid, operation of fork lift trucks;
- preventative health care;
- accidents at work, but also any near-miss incidents;
- providing employees with protective clothing, footwear, and personal protection equipment;
- fire safety and first aid;
- implementation of recommendations and orders of the inspection bodies, e.g. State Labour Inspectorate, State Sanitary Inspectorate, Social Insurance Institution.

All employers are obliged to prepare an analysis of health and safety, not only employers operating in the area of production, but also in administrative and office environment. Such an analysis is a great tool to check the safety in the organisation, find changes which took place in the last year, and take the direction to improve safety of employees.

Paweł Bondarczuk
Immigration Assistant

IN FEBRUARY ANOTHER CATEGORY OF UKRAINIAN CITIZENS MAY LOSE ACCESS TO CONSULAR SERVICES

On 5 February Ukrainian categories “partially fit” for military service will expire. This is a result of the act passed by the Ukrainian authorities in March 2024. Citizens who had received this category before, were supposed to report to the military office voluntarily before 4 February 2025 for medical re-examination.

From 5 February Ukrainian military offices will start summoning persons who have not fulfilled the formalities in time to report in person under a penalty of fine. According to the law, they may also summon “per aviso”. This means that once the deadline for collecting the letter has passed, the summons is deemed to have been served. “Partially fit” Ukrainian citizens who do not report on time indicated in the summons will get a “wanted” status in an application of the Ministry of Defence of Ukraine “Rezerv+”, used to complete data and verify their military status. Persons who receive the above status will lose access to all consular services, even if they had previously completed their data on time. Besides they can be fined UAH 17,000-25,500. The summons of Ukrainian authorities do not affect the legality of the stay of Ukrainian citizens in Poland, so under Polish law employees summoned to appear do not have to leave the country.

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