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# TOPICS

Pregnant women can withdraw from an executed agreement regarding the termination of their employment

All employment-related documents may be kept in electronic form

Burnout is a disease

Whistleblowing procedures should make it possible to report all possible irregularities

Restrictions still in place on traveling from Poland to the US

INSIGHTS / WEBINARS

## TOPIC 1

# **Pregnant women can withdraw from an executed agreement regarding the termination of their employment**

According to the case law of the Supreme Court, if a female employee enters into an agreement to terminate her employment contract during pregnancy, it is treated as an error entitling her to avoid the legal effects of her declaration of intent.

This is conditional upon the female employee being unaware of her pregnancy at the time of entering into such an agreement. The female employee's declaration should be submitted to her employer in writing.

If a female employee withdraws from the legal effects of the declaration she submitted regarding the termination of her employment, the executed agreement is invalid and does not produce any legal effects. The employment relationship between the parties thereby remains intact. The employer's consent to "invalidate" the agreement is unnecessary – this effect transpires by the power of law.

If an employer refuses to recognize that the employment relationship between the parties remains intact, the female employee can file a lawsuit to establish the existence of this employment relationship. The female employee may also insist on reinstatement along with pay for the duration of her readiness to work.



Natalia Łokińska  
Advocate



## TOPIC 2

# All employment-related documents may be kept in electronic form

At present, there is no doubt that personnel files and other employee documentation (including, for instance, records of working time and payroll) can be kept entirely in soft copy form.

Going paperless calls for three steps:

First, an employer should make two crucial decisions:

- which sets of documents will be digitized (e.g. only personnel files or the entirety of employee documentation, and perhaps other sets, too), and
- which groups of employees will be subject to this new solution (current, former or only new employees).

Second, the document scanning process should be planned. An employer may do this by using its own resources or availing itself of the services of third parties.

In the latter case, it is possible to contract an external party not only to scan the documentation but also to sign the scanned documents using qualified electronic signatures (or stamps), which is required for duly switching from hard to soft copy.

Finally, the employer should select the tool to keep e-files. Vendor selection is most frequently triggered by a global decision (the tool in question is already in use by other group companies) or the fact that the tool to keep e-files is one of the functionalities offered by the HR and payroll system used in an organization.

In every case it is necessary to make a thorough assessment of the e-file software in terms of it satisfying the requirements laid down by the regulations. The assessment of the tool is a requisite part of the process of switching to e-files effectively and in compliance with the law.



Nicole Gerwat  
LL.M. / Attorney-at-law



### TOPIC 3

## **Burnout is a disease**

Employer, take care to ensure your employees enjoy comfortable working conditions and good mental health.

As of 1 January 2022, burnout will be recognized as a disease for which a physician can issue medical leave.

In June of 2019 WHO placed burnout in the International Classification of Diseases (ICD). Until now, burnout has only been considered to be a syndrome.

Burnout presents the following symptoms, among others:

- a feeling of exhaustion,
- depressed mood, apathy,
- lower performance,
- reduced evaluation of achievements.

The following factors can contribute to burnout: inadequate pay, work overload, ineffective management, poor work culture.

Employee well-being is now a topic of interest to employers. Providing for work & life balance is a standard.

More and more employers are offering webinars on well-being to their employees, meaning the benefits of mental health therapy. Proper workplace management affects not just employee performance but also their feeling of well-being.

Caring for employees' mental and physical condition will certainly attenuate the risk of massive levels of employee leave due to burnout.



Natalia Basista  
Advocate



## TOPIC 4

# Whistleblowing procedures should make it possible to report all possible irregularities

Whistleblowing procedures are a fundamental part of the compliance system. This makes it possible to detect breaches before they pose a threat to an organization's assets or reputation and identify gaps in managing compliance risk.

Whistleblowing regulations are in force in more than 40 countries around the world. The EU parliament has enacted a Directive to protect whistleblowers which member states must implement by 17 December 2021.

This directive imposes, among others, an obligation to put in place channels to report breaches of EU law and adopt whistleblowing procedures. However, thus far the draft version of the domestic implementing regulations has not been published: the detailed scope of compliance duties applicable to entities in the public and private sector is still unknown.

Having regard for the purpose of whistleblowing procedures, namely, to counter abuse, their scope of application should span the widest possible catalogue of irregularities, including:

- suspicions of committing illegal acts / breaches of law,
- violations of internal procedures, policies and standards of conduct,
- violations of ethical principles.

Making it possible to report all possible irregularities is consistent with the prevailing international standards (ISO 37002 Whistleblowing management systems – Guidelines) and will contribute to enhancing the effectiveness of the compliance system.



Ewelina Rutkowska  
Trainee advocate



## TOPIC 5

# Restrictions still in place on traveling from Poland to the US

People planning to travel to the US continue to face entry restrictions. This also applies to business travel.

People who over the 14 days prior to their scheduled date of entry have been in the Schengen Area, among other locations, cannot enter the United States even if they hold a valid visa or ESTA authorization.

Exceptions do apply. One of them is the allowance to enter the country after receiving a National Interest Exception (NIE).

These exceptions are issued by US diplomatic posts in response to a traveler's application. Interested parties must demonstrate that their entry is justified by a US interest, e.g. they are involved in managing investments of significant importance to the US economy. The consular officer makes the decision to grant an exception after checking the application.

Exceptions are valid for 12 months from the time of their issuance and may be used multiple times.



Michał Kacprzyk, PhD.  
Attorney-at-law



Jan Pietruczuk  
Immigration Consultant



## INSIGHTS / WEBINARS

### Training session | Employees on parental leave

14 October | 10 am to 1 pm

Learn about the current problems and challenges related to exercising parental rights – one of the most extensive sections of the labour code.

[← Program and registration](#)

Paid event.

### PRO HR Library | Working hours during remote work

The latest publication of Iwona Jaroszewska-Ignatowska, Ph.D. is now available!

Remote working brings many challenges related to the proper organization of the employee's #workingtime.

The book is about planning and settlement of working time, confirming the arrival and presence at work, ordering and settlement of overtime and work on holidays, on-call duty, keeping records of working time, among others.

[← Details](#)

### WEBINAR | The Polish Governance Program – tax upheaval for employees and co-workers

13 October | 10 am to 11 am

Would you like to find out how these changes will actually affect salaries and employment costs of particular groups of employees and co-workers? As well as how the possible negative changes can be reduced or neutralized?

[← Program and registration](#)

### Compliance Day 2021 | Key findings

The fifth edition was devoted to whistleblower protection, the role of HR in implementing the compliance system and the latest global compliance trends.

The implementation deadline for the directive is already approaching (the 17th of December 2021). What do we suggest you to do?

[← Details](#)

### Who's Who Legal 2021 | Janusz Tomczak a Thought Leader

For the consecutive year, Janusz Tomczak has been recognised as a Thought Leader in the field of #businesscrime Defence – Corporates and Business Crime Defence – Individuals.

Special thanks to our clients and peers for the support and votes!

[← Details](#)



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