



## We invite you to attend the Eighth Edition of Masters of Employment Law

Applications and queries should be sent to: [prohrevents@raczkowski.eu](mailto:prohrevents@raczkowski.eu)



Dear Readers,

in the August issue of PRO HR we comment in particular on changes to procedural rules: the courts will be able to impose on employers an obligation to continue employing a dismissed employee until the final completion of the proceedings. This also applies to ongoing proceedings that are not completed before the new regulations enter into force.

We also write about the report from an inspection by the Supreme Audit Office (NIK) on the preparedness of the state administration for serving foreigners. The administration is unable to deliver adequate services to foreigners. You will find details on the conclusions from the report below.

Finally, a few words about post offices. Although they are exempted from the ban on trading on Sundays and public holidays, the labor inspectorate disputes this. This is wrong: the regulations clearly exempt them from the trade ban, and the courts confirm this. However, when running a post office, you must bear in mind the obligations imposed by the Anti-Money Laundering Act.

I hope you will find the contents useful,  
Robert Stępień

### **The court will be able to order employment of dismissed employee until termination of proceedings**

The court, at the request of the employee, will be able to mandate that the employment of a dismissed employee continue until the final completion of the proceedings. This will apply to proceedings resulting from the employee's dismissal. The order to continue employment can be applied both when the termination is deemed ineffective as well as in the case of reinstatement of the employee in the job. The risk that the employee will be admitted to work despite the ongoing proceedings will not arise only if the employee is claiming compensation from the employer.



Attorney-at-law  
Piotr  
Lewandowski

Until now, the court could order the employer to continue to employ a worker only if the employment relationship has yet to be terminated, i.e. when the period of notice has not elapsed. In practice, due to the length of proceedings in cases concerning termination of employment, which have significantly exceeded even the longest 3-month notice period, this provision has been dead.

The amendment means that employers will need to reinstate employees much earlier, not knowing whether the decision is final. The new wording of the regulation will also apply to cases initiated and not concluded before the amendment enters into force.

### **Public administration fails to serve foreigners adequately**

The Supreme Audit Office published a report on the results of the audit on the preparedness of public administration for serving foreigners. Unfortunately, the conclusions are clear: government agencies fail to cope with this task.



Adv. Karolina  
Schiffter

The report raises the following issues in particular:

- Over the past four years, the time needed to legalize a foreigner's stay in Poland has increased by more than three times, from 64 to 206 days.
- In an extreme case, a foreigner waited for more than three years.
- Efficient, reliable and timely service is missing, which is caused, among others, by staffing problems at public agencies and insufficient funding for their activities.
- No strategic document defining state policy on shaping migration has been created.

All this can cause foreigners who fill shortages in our labor market to leave Poland.

We encourage you to read the report, which certainly helps understand the details of immigration proceedings and the functioning of public agencies in the area of legalization of work and stay.

<https://www.nik.gov.pl/aktualnosci/panstwo-niegotowe-na-cudzoziemcow.html>

If you have any questions, our team at Immigration and Global Mobility is at your disposal.

## **PUBLICATIONS**

### **Entrepreneur test**

This tool will help determine if your current model of cooperation with sole traders ("B2B") exposes you to risk, and if so, what the level of this risk is.

The test is available [here](#).

If after completing the questionnaire you have any questions or concerns, we are available. We are happy to help in a thorough B2B model audit. We will determine in detail the areas of potential risks, we will recommend changes and help you implement them keeping in mind your individual needs.

## Post offices can trade on Sunday

The case law confirming that post offices may trade on Sundays, even if the provision of postal services is not a prevalent part of their business, is strengthening.



Adv. trainee  
Ewelina Rutkowska

The trade ban does not apply to post offices, i.e. organizational units of a postal operator or postal agent. There are currently 289 such operators in Poland. Despite this, the labor inspectorate carried out many inspections and filed motions to penalize entrepreneurs providing postal services as a post office. According to the inspectorate, this is a circumvention of the law and employment in trade against the legal prohibition.

I do not agree with this position: postal operators and their organizational units are expressly excluded from the scope of the Act. The jurisprudence emphasizes that *it is irrelevant that the delivery of courier parcels is not a major part of the activity, since the legislator did not make such reservations in relation to post offices.*

Post offices should, however, remain vigilant in the area of regulatory compliance. They must comply with the regulations applicable to postal operators, including provisions on the protection of personal data based on the GDPR. What is more, in the light of the Anti-Money Laundering Act, postal operators are “obligated institutions”, which entails a number of obligations, such as adoption of general risk assessment, special procedures and questionnaires concerning the application of financial security measures. Therefore, the internal regulations of the “obligated institution” will also include post offices.

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## EVENTS

**HR Fridays over Krakow bagel: Employee savings plans - the biggest employers are nearly there, time for the smaller ones**  
September 6, 2019, Krakow

Conducted by: attorney-at-law Robert Stępień  
Detailed program available [here](#).  
This is a free event.

**SRD II: Breakfast for listed companies**  
September 17, 2019, Warsaw

Conducted by: attorney-at-law Katarzyna Sarek- Sadurska  
Detailed program available [here](#).  
This is a free event.

**PRACTICAL WORKSHOP - how to part with an employee without making mistakes: legal and psychological aspects**  
September 23, 2019, Krakow

Conducted by: Dominika Dorre – Kolasa, Ph.D. and psychologist Anna Wolfarth  
Detailed program available [here](#).  
This is a paid event.

**Dismissal on the substantive and economic grounds – business breakfast**  
October 3, 2019, Warsaw

Conducted by: advocat Bartłomiej Raczkowski  
Detailed program available [here](#).  
This is a free event.

Please send your questions and applications to: [prohrevents@raczkowski.eu](mailto:prohrevents@raczkowski.eu)