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Raczkowski

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TOPICS

The Minister of Justice wants to allow people convicted of intentional offences to be able to shortening their automatic ban on serving on the boards of capital companies

Deferring the payment of social security contributions for which shield funding was obtained does not entitle the Labour Office to claim back the funding

The proposed new definition of mobbing equates it with stalking. This could make it easier to hold perpetrators criminally liable

New immigration regulations are already in force

THE MINISTER OF JUSTICE WANTS TO ALLOW PEOPLE CONVICTED OF INTENTIONAL OFFENCES TO BE ABLE TO SHORTENING THEIR AUTOMATIC BAN ON SERVING ON THE BOARDS OF CAPITAL COMPANIES



Janusz Tomczak
Advocate

Under current legislation, individuals convicted of economic and property crimes are automatically subject to a five-year ban on serving on the boards of capital companies. Anyone convicted of an intentional offence cannot apply for this ban to be reduced.

However, the Minister of Justice has put forward a draft amendment to the Code of Commercial Companies that would allow such individuals to apply to the district court for the ban to be revoked or shortened.

The Ministry points out that the automatic five-year ban, without the possibility of shortening it, is too harsh a regulation and does not allow for the circumstances of individual cases to be taken into account.



Piotr Graczyk
Advocate

DEFERRING THE PAYMENT OF SOCIAL SECURITY CONTRIBUTIONS FOR WHICH SHIELD FUNDING WAS OBTAINED DOES NOT ENTITLE THE LABOUR OFFICE TO CLAIM BACK THE FUNDING

At the time of the pandemic, one of our clients obtained funding under Poland's Shield scheme. Furthermore, the Social Insurance Institution (ZUS) agreed to defer payment of contributions for the period covered by the subsidy. However, the Labour Office deemed this to be a breach of the agreement and demanded the return of the contributions.

However, we persuaded the court that the claim was unfounded. This is because the contract contained no deadline for the payment of contributions and did not prohibit a deferral from ZUS. The client paid the contributions on the date agreed with ZUS. According to the court, the Labour Office's approach was 'formalistic' and 'radical'.

The judgment is not final.



THE PROPOSED NEW DEFINITION OF MOBBING EQUATES IT WITH STALKING. THIS COULD MAKE IT EASIER TO HOLD PERPETRATORS CRIMINALLY LIABLE

The widely discussed draft amendment to the Labour Code provides for a simplified definition of mobbing, among other things. It is now simply defined as the persistent harassment of an employee. Since June 2011, Article 190a of the Criminal Code has been in force, providing for a punishment of six months to eight years' imprisonment for stalking, which also consists of persistently harassing another person. This has raised questions whether every instance of bullying in the workplace will automatically become a criminal offence.



Damian Tokarczyk, PhD
Advocate

Mobbing versus stalking

This will not be clear in all cases, but generally they will remain separate offenses. For stalking to be established, the persistent harassment must have the effect of making the victim feel threatened, humiliated or anguish, or substantially invade the victim's privacy. While these effects are almost always present in cases of 'persistent harassment', they must be proven in specific criminal proceedings.

Currently, mobbing can meet the characteristics of several offences, including threats, the infringement of an employee's rights, insults and defamation. Aligning the definitions of mobbing and stalking would make it easier to combine proceedings and punishing perpetrators of mobbing in criminal proceedings.

Mobbing and compliance

The proposed amendment to the anti-mobbing legislation unequivocally decrees that employers should actively prevent bullying in the workplace. This prevention involves taking appropriate action, such as implementing policies, as well as setting an example from the top and fostering an appropriate organisational culture. Employers are also obliged to detect instances of mobbing and react to suspicions of mobbing by conducting internal investigations.

NEW IMMIGRATION REGULATIONS ARE ALREADY IN FORCE

The most significant reform of Poland's immigration laws in years came into force on 1 June 2025.

The most important changes concerning the employment of foreigners are summarised below.



Agnieszka Szymańska
Immigration Consultant

1. The list of Polish visas that do not entitle a foreign national to work in Poland has been expanded to include all visas issued by other Schengen countries.
2. The catalogue of cases for refusing to issue a work permit has been expanded – the Immigration Office will refuse to issue a permit if the beneficiary of the foreigner's work is an entity other than the employer.
3. The procedure for obtaining a labour market test has been abolished, meaning the employer will no longer have to prove that there are no suitable Polish candidates on the labour market. Instead, district offices will publish lists of professions in which a foreigner cannot be employed in that district.
4. The full digitalisation of work permit procedures has been introduced, eliminating paper applications.
5. The validity of work permits issued for less than ½ FTE and for companies that have been in existence for less than a year has been reduced to a maximum of one year.
6. Intra-corporate transfers are only possible with a vertical capital link and employee status requirements.
7. The obligation to submit the contract details to the foreign person in writing and in a language they understand has been introduced.
8. The following periods will be reduced to two months:
 - the period in which the authority (the Immigration Office) must be notified that the work has not been undertaken from the permit's initial validity date;
 - the period during which work can be interrupted without notifying the authority;
 - the period before the permit expires during which the cessation of work does not require notification.
9. Priority processing of permit applications has been introduced in the following order:
 - applications from entities carrying out economic activity of significant importance for the Polish national economy.
 - subsequent permit applications for the same conditions;
 - applications for permits in professions experiencing staff shortages;
 - other applications.
10. The possibility of occasionally providing a service to a foreign entity that does not operate in Poland has been introduced, without the need for a permit.
11. A statutory obligation has been introduced for the employing entity to inform the applicant about:
 - the actions taken to apply for a permit;
 - the possibility of joining a trade union.

12. The employing entity is now required to inform the governor within 15 working days of any of the following circumstances arising:
 - a change in the registered office, place of residence, name or legal form of the entity entrusting the work;
 - the transfer of the workplace, or part of it, to another employer;
 - a change of the workplace, or part of it, to another employer;
 - an increase in the working hours specified in the temporary residence and work permit, provided that the remuneration increases proportionally;
 - a change of job title without a change of duties;
 - the replacement of a civil law contract by an employment contract;as well as within 15 days of the termination of employment.
13. The employing entity has seven days from the commencement of work on the basis of the statement on entrusting work to notify the Labour Office of this.
14. If the foreign person has not commenced work within 14 days from the commencement date declared in the statement, then the employing entity has to notify the authority.
15. The relevant authority must be notified if the employment is terminated before the expiry of the statement on entrusting work.
16. A new declaration must be made if the foreign person's job title changes without a change of duties, or if the foreign person's working hours are increased up to full-time.
17. A diploma from any higher education institution in Poland exempts graduates from needing to obtain additional work permits. Until now, this privilege applied only to graduates from full-time studies.

The most important changes concerning the residence of foreigners are:

1. The period of professional experience required to obtain an EU Blue Card is:
 - three years if the profession is included in the published list of professions entitled to this solution;
 - five years for other professions.
2. The period of validity of a contract concluded with a foreigner in order to obtain an EU Blue Card has been reduced to six months.
3. The list of people not entitled to an EU Blue Card has been expanded to include individuals staying in Poland on the basis of:
 - a permit for tolerated stay or for humanitarian reasons;
 - granted asylum or temporary protection;
 - anyone with a PESEL UKR status.
4. The period allowed for an EU Blue Card holder to be unemployed is:
 - up to three months during the first two years of residence on the basis of an EU Blue Card;
 - up to six months if residence exceeds two years.
5. There are no employment conditions on the decision of the person holding an EU Blue Card, meaning there is no need to amend the decision if the employment conditions change.

6. The holder of an EU Blue Card must inform the relevant authority within 15 days of:
 - changing employer;
 - losing a job;
 - ceasing to meet the permit requirements.
7. A long-term mobility term has been introduced for individuals holding an EU Blue Card issued by another Schengen State, provided they have resided in that state for at least 12 months on the same card, or for at least six months on the basis of long-term mobility.
8. Anyone holding an EU Blue Card can now establish a sole tradership (JDG).
9. It is easier for a person holding an EU Blue Card to obtain EU long-term resident status.
10. The period in which a person with EU citizenship can stay in Poland without needing to register their residence has been extended to nine months, provided they are actively seeking employment, or for a longer period if they are actively seeking employment and have a real chance of finding a job.

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