

**Position Paper of the Serbian Association of Employers**  
Representative Employer Association in the Republic of Serbia

# **Changes to the Labour Law**



Belgrade, May 2013.

**In the survey of Serbian Association of Employers managers of 202 companies  
unanimously agree**

## ***Reform of Labour Law is urgently needed***

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**Serbian Association of Employers, in cooperation with CEFE Serbia conducted a survey of 202 small- and medium-sized and large companies concerning the costs and administrative procedures of the current Labour Law.**

**Directors and managers of surveyed companies listed the current Labour Law as a serious obstacle to the increase of employment, reduction of business expenses, bureaucratic procedures and informal economy.**

**Impossibility of establishing a fixed-term labour relation for a period of time longer than one year, lack of flexible work forms, obligation to make severance payments for all years spent in employment and tens of slow and outdated administrative procedures in the employer – employee relations pose a significant barrier to business and create high costs for businesses in Serbia.**

In the survey conducted in cooperation of Serbian Association of Employers and CEFE Serbia managers of domestic companies recommended the priorities for urgent reform of the Labour Law.

1. Expedite the functioning of the formed Workgroup for drafting the new Labour Law, consisted by the representatives of Serbian Association of Employers, Ministry of Labour, Employment and Social Policy, and representative trade unions in order to define Labour Law amendments by the 1<sup>st</sup> September 2013. at the latest.
2. It is necessary that this Workgroup conducts an analysis of all problematic articles of the Labour Law and recommends the amendments, and to supplement the Law by segments which have not been included thus far, and which could influence the cost reduction for the business sector and increase the employment.
3. Labour Law amendments should primarily reduce the cost of doing business, simplify the procedures and enable more flexible employment according to the needs of the employers.

Employer recommendations are to:

- Increase the maximum duration of fixed-term labour contracts from one to three years
- Remove an obligation of employers for payment of severance pays for all years spent in employment, and make obligatory severance payments based on the years spent in the company.
- Introduce flexible work forms and possibility of working day shorter than eight hours, with guaranteeing the employees in such arrangements proportional rights.

- Remove a number of formalistic procedures, superfluous legal papers and terms during start and termination of employment procedures, and to remove bureaucratic red tape from employer – employee relations, unnecessarily long terms and possibilities for manipulation and abuses.
- Enable better, simpler and more modern communication between the employer and employee, in order to enable more efficient organization of work in the company.
- Allow overtime work longer than eight hours per week, with employee consent.
- Make more precise criteria for length of annual vacation and simplify use of partial annual vacation.
- Introduce the possibility for voluntary return to work of women on maternity leave with half work time, where the employer would pay wage, tax and social security contributions for the hours spent at work, while the state would reimburse the rest of the employee wage.
- Introduce the right of the employee for awards and bonuses for contribution to company profits.
- Reduce formalism concerning monthly records of wages and wage compensations.
- Introduce greater flexibility for workforce leasing in accordance to realistic needs and economic abilities of the lessee.
- Shorten the term in which the former company trade union representative has protection from the current one year to six months.
- Increase the representativity threshold for company unions to 30 percent of total number of employees, in order to make employer – trade union relations in the company more efficient and of higher quality.
- Create a special chapter of Labour Law regulating the employment agencies as another practical and efficient way of introducing flexible work forms and reducing unemployment.

### **A. Situation in the Field of Labour, Employment and Informal Economy**

The Labour Law which is currently applicable to the Serbian businesses contains numerous formalistic procedures, unclear provisions and poses a serious obstacle for the employers to arrange the relations with their employees in accordance to their economic capabilities. In addition, it imposes significant expenses to the companies that enter into financial difficulties due to lack of business opportunities and practically forces a number of entrepreneurs and small companies to employ informally in order to reduce the business expenses.

The current Labour Law largely copied the employee rights from the socialist Yugoslavia, where workplaces were seen as a social, and not an economic function and when there state was the only employer, and was thus able to guarantee far greater rights to the employees than private employers who risk their own capital in a very competitive business environment both on domestic and foreign markets.

In addition to this legal environment, we must also consider that the taxes and compulsory social security contributions on the average wage in Serbia amount to almost 64% of net wage, and that the calculations on the size of informal sector vary from 27,5% to 40,3% of GDP and that disloyal competition (informal employment) is very widespread. Once all that is taken into account, it becomes clear that the conditions for doing business of enterprises which respect the rights of their employees in accordance to the current Labour Law are very difficult and contribute to:

1. High business expenses for legal companies
2. Insolvency of numerous enterprises
3. Bureaucratization and superfluous „red tape“ procedures in business.
4. Inconsistent interpretation of regulations by the inspections and judicial system
5. Inability of the employers to stimulate quality employees and sanction bad results and damages caused by uninterested and unproductive employees
6. Inefficient work organisation in the company which incurs expenses and losses in businesses
7. Reduction of productivity and competitiveness of products and services
8. Prevents employers from using flexible forms of work organisation and flexible work forms to quickly adapt to market changes.
9. Constant reduction of formal employment
10. Generational inequality and difficult employment of young people, as well as unemployed over 45 years of age.
11. Increase in informal employment and informal sector.

### **Labour Law, in Addition to High Wage Taxes and Contributions, the Primary Cause of „Gray“ Economy**

According to the Statistical Office of the Republic of Serbia the number of employees in Serbia reduced from 2,002,347 in 2007. to 1,727,048 in 2012. The dominating reasons for this 13.7% reduction in employment (loss of 275,299 workplaces) are:

1. Transition of Serbian economy and restructuring of numerous government-owned enterprises
2. Influence of the reduced demand due to global financial crisis.
3. Lack of key reforms in order to create a business- and development-friendly environment.
4. Fast implementation of EU *acquis* in the association process that significantly increased the business expenses in Serbia.

One of the reforms that was failed to be conducted, and was necessary since autumn 2008. in the eve of global financial crisis was the reform of the Labour Law. Had the reforms been conducted in a timely manner, introduction of flexible work forms would reduce the need of many Serbian companies to reduce the number of employees due to the reduction of economic activity, since a part of the laid-off employees would have been offered flexible working hours according to the needs of the employer, which would have provided them with at least a minimum subsistence.

Considering that flexibilisation was not introduced 275,299 jobs were lost, and many of the former employees found new employment in informal economy. Estimates are that today between 600,000 and 1.05 million people are informally employed, and that this number has significantly increased in the 2008-2012 period.

Such a high percentage of people employed informally presents a huge competition to employers that legally employ their workforce and pay full amount of tax and contributions on their wages and bear the burden of all other employee rights. Their disloyal competition has 40 to 50 percent lower labour expenses and is capable of placing their products, goods or services at lower prices, which stimulates the buyers whose purchasing power reduced by over 30 percent (in the period 2008-2012) to purchase their goods and services from informal sector

Unreformed Labour Law creates high expenses for legal employers and poses difficulties to running business through a number of bureaucratic procedures. This way, it practically benefits the increase of informal employment and the flow of goods and services in the informal sector, as the individuals operating in the informal sector can offer the goods or services at lower costs. Together with high taxation of wages that are beyond the ability of large number of businesses to finance, the current Labour Law stimulated the increase of informal employment and informal economy.

### **What the Employers Identified as a Problem in the Survey**

In the situation when the effects of the economic crisis – namely, reduction of demand on the domestic market (reduction of turnover, adjusted for inflation, in the period of 2008-2012. is 30.4%), unstable business environment and lack of affordable sources of finance - had a devastating effect on the national economy it is necessary to make an effort toward unburdening of the businesses and simplification of superfluous procedures.

Research conducted in February, March and april of 2013. by Serbian Association of Employers and CEFE Serbia (as part of the Conductive Environment for Sustainable Enterprises project of the International Labour Organisation) identified a number of issues with the application of the current Labour Law in everyday practice and significant expenses that are incurred by the employers in Serbia. The employers were surveyed for their opinions on the key aspects of Labour Law.

- 72% of the employers considers that severance payments should be calculated according to the number of years spent in the company, and not for all years spent in employment.
- 81% of the employers stated that they hire employees with fixed-term contracts, who, on average, make a 14.9% of total number of employees in the company. For 59% of the employers maximum length of fixed-term contracts of only one year represents a serious limiting factor for their business.

- Employers consider that the limitation for performing of temporary and seasonal works should be increased from current 120 days to 250 days, since it prevents them from hiring same person on a seasonal job.
- Employers feel that procedures for employing and terminating employment should be made shorter and more efficient.
- 69% of the employers consider that per diems for employees operating outside of the business premises (field work) should be abolished in the case of employer financing the costs of transport, meals and accommodation.
- 59% of the surveyed employers hold the opinion that the minimum duration of the first part of annual vacation should be two weeks, instead of the current three weeks in order to make work organisation in the company easier. In addition, 64% of the employers consider that the employer should be able to hand the decision on granting annual leave to the employee via electronic mail.
- Most employers feel that working conditions (84%) and work performance (81%) should be the key legal criteria for determining the additional days of annual vacation, not work experience or educational degree.
- 81% of the employers hold the opinion that former company trade union representative should be treated equally to other employees after stepping down from the position.
- 62% of the employers consider that the representativity threshold for trade unions on the company level should be minimum of 30% of total number of employees.
- 61% of the employers feel that flexible work (maximum of 4 hours per day, per employee demand) should be offered to women on maternity leave.

Listed sections of the Labour Law can be amended and adjusted to the realistic circumstances of working relations, simultaneously respecting the rights of the employees as set forth by the ILO Conventions. This reduction would reduce the business expenses of companies and entrepreneurs and eliminate needless bureaucratic procedures. The savings achieved through this could be diverted into new investments and business development, which would contribute to opening of the new workplaces in the long-term, but also in the real net wage growth in the companies with good business results.

### **B. Action for the Reform. Influence on the Responsible Authorities.**

The results of the survey conducted among the employers in the period of February – April 2013 will be delivered to the institutions directly or indirectly responsible for the creation of legal framework in the field of labour and the control of the application of the Labour law in the business sector, as well as the representative social partners in the Socio-Economic Council of the Republic of Serbia:

- Ministry of Labour, Employment and Social Policy
- Ministry of Finance and Economy
- National Assembly of the Republic of Serbia (and all parliamentary groups)
- Prime Minister of the Government of the Republic of Serbia
- First Deputy Prime Minister of the Government of Serbia
- Labour Inspection
- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- Trade Union Confederation „Independence“

Serbian Association of Employers will demand the intensifying of the activities of Workgroup for drafting the amendments of the Labour Law from these institutions and increasing the speed of reform of labour legislation through establishing the priorities and deadlines for the implementation of the necessary changes.

Final document of the Workgroup for drafting the amendments of the Labour Law would contain the proposals for the amendments of all contentious articles of Labour Law that create a barrier to the development of the economy and business activity, and also present a limiting factor for the new employment.

### **C. Effects of the Labour Law Reform**

Reform of the Labour Law will positively contribute to the business environment in the Republic of Serbia, and achieve a number of short-term and long-term results:

#### **1. Short-term Results**

- Simpler and more efficient work organisation in the companies
- Lesser operating costs
- Significant reduction in business administration
- More efficient and better quality communication in the companies
- More precisely determined employer-employee relations, which would simplify HR management
- Creation of a system of stimulation of the employees that achieve results, compared to those who are not as efficient, and currently have equal treatment.

#### **2. Long-term Results**

- Improvement of the business environment for resident and foreign investors
- Cost reduction in the business activities that can be diverted to investments and job creation
- Increase of productivity in the business sector
- Reduction of unemployment by introducing flexible work forms
- Setting up relations between employers, unions and employees on the realistic economic basis.