

## Prohibition on restricting the employee's other gainful activities outside working hours

Labour Code Amendment 2022, Slovakia

1 November 2022

As already outlined in the chapter "THE NEW EMPLOYMENT CONTRACT", the amendment introduces **an explicit prohibition of limiting the performance of other gainful activity of an employee outside the specified working hours by the employer into the Labour Code**. The reason for this change is directly based on the wording of point 29 of the introductory provisions of the Directive, according to which an employer should not prohibit employees from being employed by another employer outside the working time schedule set by that employer, nor should it disadvantage employees in any way because of this.

Text in force until 31 October 2022	Version effective from 1 November 2022
	<b>(Modified) § 44 Further content of the employment contract- paragraph 2</b>
Subparagraph (b)(2) of Article 44 is introduced into the Labour Code by the amendment in question, and thus the Labour Code did not previously contain a similar provision.	<b>2</b> The provisions of an employment contract or other agreement between an employer and an employee are invalid, <b>a</b> <b>which prohibit the employee from engaging in other gainful activity outside the working hours specified by the employer; this is without prejudice to the restriction on other gainful activity pursuant to Section 83 of the Labour Code or pursuant to special regulations.</b>

In other words, the employee will now be entitled to carry out, whether as an employee or as a self-employed person, other gainful activities in addition to his or her "first employment" outside the designated working hours with the "first employer". The employer will no longer be able to prohibit, restrict or make the performance of such gainful activities or activities subject to the employer's prior consent or prior notification.

Please also note that the amendment maintains the provision of Section 83 of the Labour Code, according to which the performance of an employee's gainful activity (in addition to the employee's employment

performed in the employment relationship) having the character of a competing activity to the employer's activity is subject to the employer's prior consent.

## WHAT WILL THESE CHANGES BRING TO YOUR PRACTICE?

### EXISTING EMPLOYMENT CONTRACTS/CURRENT STAFF

As we have outlined in the previous chapter, we note that in the context of the amended Article 44 of the Labour Code, which provides for the prohibition of the employer to prevent the employee from performing other gainful activities outside the working hours determined by the employer, any provisions of existing employment contracts containing such a prohibition will, in our opinion, automatically be invalid.

### NEW EMPLOYMENT CONTRACTS/NEW STAFF

When negotiating new employment contracts, we recommend taking the new legislation into account and not negotiating the above prohibition in new employment contracts, even if the employee explicitly agrees to such a prohibition in the employment contract. In our view, the court would most likely find the negotiation of such a prohibition, even with the employee's consent, to be invalid and unacceptable in order to protect the weaker party - the employee.

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