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Stricter requirements for posting of workers to Austria are in force from this year

As from 1 January 2017, a new law against salary and social dumping (Lohn- und Sozialdumping-Bekämpfungsgesetz) is in force in Austria. First of all, this new regulation unified the regulation regarding posting of labour force in Austria, which was contained in the Employment Contract Law Amendment Act (Arbeitsrechtsvertrags-Anpassungsgesetz – AVRAG) and the Labour Force Disposal Act (Arbeitskräfteüberlassungsgesetz – AÜG) so far. At the same time, this new regulation brought new administrative requirements, whereas their infringement will be penalized in a much stricter way.

Even during the former legal regulation, it was necessary to fulfill so-called notification duty (Meldepflicht) towards the Austrian administrative bodies before the posting of the labour force to Austria. This duty remained unaffected.¹ However, it is now only possible to fulfil it using the electronic forms provided by the Federal Ministry of Finance.

The workers' duty to have extensive work and other documents at disposal (employment contract, A1 form regarding the worker's belonging to the social insurance system, documents regarding the salary payments, schedule of the working hours etc.) remained unaffected as well.² In contradiction to the former legal regulation, it is no longer possible to provide them subsequently. Furthermore, they must be translated into German language.³

The Act's name also gives a clue that the employers are obliged to remunerate their employees working in Austria in line with Austrian regulation regarding the minimum wage, as well as in line with the collective agreements valid in Austria.

A common element of the whole new legal regulation is that the infringement of its particular provisions can lead to high fines amounting to thousands of euros.⁴ The critics of the new

¹ Section 19 of the LSD-BG

² Section 21 and section 22 of the LSD-BG.

³ An employment contract constitutes an exemption since it can be provided in English.

⁴ E.g. the infringement of the duty to notify the posting of the workers to Austria can lead to a fine in the amount of 1.000 – 10.000 euro in case of every single worker, whose activity in Austria wasn't properly announced. In case of repeated infringement, this fine rises to 2.000 – 20.000 euro.

regulation therefore assert that the real goal of this regulation is to complicate the exercise of work in Austria to the entrepreneurs seating outside Austria and consequently to protect the domestic labour market.

With regards to the abovementioned, it is highly recommended to prepare the posting of workers to Austria properly. In the opposite case, this posting of workers may end up as an economic flop.