

FEBRUARY 2022

LEGAL ALERT

EMPLOYMENT LAW



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Below please find information on labor law and social security-related issues that are important for both employers and employees.

BKB Law Firm wins again!

We are happy to inform that we have won the criminal case, where we represented the Human Resources Manager of IKEA.



- The Court fully supported the arguments of the defence, and acquitted our Client from the charges of discrimination based on religion.
- The case concerned an employee who was dismissed for publishing posts with quotes from the Bible, referring to LGBT+ persons.
- This case will create a precedent. Judgments in this case will have significant consequences both for the further functioning of employers and the policies they create, as well for the interpretation of the law itself. The judgment given in this case will define the acceptable forms in which views can be expressed in the workplace.

The defence was conducted under the supervision of Prof. Attorney Daniel Książek with the participation of Attorney Jacek Trela and Attorney in training Łukasz Łaguna.

More on this topic can be found here:

<https://www.prawo.pl/kadry/wpis-z-grozbami-wobec-osob-lgbt-uniewinnienie-kierowniczki-z-ikea,513425.html>

Changes in labor law in 2022

In our previous legal alert, we mentioned that **the Work-Life Balance Directive and Directive on Transparent and Predictable Working Conditions in the EU** have to be transposed into Polish law.

We have obtained the draft bill implementing these directives. Significant changes to the Labor Code are envisaged.

- Broader information on conditions of employment (including information on training provided by an employer), and changes as to the information provided to workers posted abroad.
- Changes regarding employment contracts for a trial period, for instance conclusion of this type of contract with the same employee will be allowed only if the employee will be employed to perform a different type of work.

- Changes regarding fixed-term employment contracts, including the obligation to state grounds when serving notice of termination.
- It will not be possible to prohibit an employee from being simultaneously employed with another employer.
- It will be possible to submit a request for a form of employment with more predictable/safer working conditions, to which the employer will have to respond.
- Changes regarding parental leave, including an increase to 41 weeks - when one child is born.
- Caregiver leave will be introduced with regard to care for relatives/people in the same household.
- It will be possible to be off work due to force majeure.
- It will be possible for parents caring for a child under eight years old to request flexible organization of work. Grounds must be given if the request is denied.
- The age of a child enabling an employee caring for a child to refuse for instance to be posted outside the regular workplace will be raised to up to eight (currently this age is up to four).
- It will be possible for filings with respect to parental rights to be made electronically. Currently, the rule is that the written form applies.



More on this topic can be found here:

<https://legislacja.rcl.gov.pl/projekt/12356556/katalog/12855391#12855391>

Implementation of the Mobility Package – changes in drivers' working conditions

In February 2022, the first changes of law concerning drivers' working conditions came into force due to introduction of EU transport sector regulations.

- **As of 2 February 2022, duties performed by drivers in international transport are no longer treated as business travel in the meaning of the Polish Labor Code.** At the same time, the rules for calculating the base for personal income tax and social security contributions for drivers have changed.

- The rules on drivers working at night have also changed. Previously, when work was performed at night, a driver's working hours could not be longer than 10 hours per day. Now, the working hours may not exceed 10 hours between two consecutive daily rest periods or a daily and weekly rest period.
- At a later time, further provisions will take effect under the amendment, including a change to rules on keeping records of a driver's working hours.

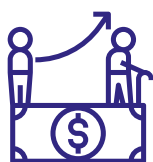
More information can be found here:

<https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20220000209/O/D20220209.pdf>

Proposed amendments to employee pension scheme

The purpose of the planned amendment is to make it easier for employers to operate employee pension schemes.

The most important changes envisaged:



- The current rule that an additional contribution can be prohibited (introducing this ban is optional) will no longer apply, and it will also be possible to finance this contribution from sources other than the salary of a member of an employee pension scheme.
- The most onerous administrative obligations of employers are to be abolished. These duties will be carried out by financial institutions operating employee pension schemes, which have the necessary technical infrastructure and human resources to do so.
- In view of the reduction of administrative obligations for employers, an obligation is to be introduced to provide the Polish Development Fund (PFR) only with a statement on the number of employed employee pension scheme members and the number of employees (twice a year). The PFR will submit this information to the Polish Financial Supervision Authority.
- It will be easier for employers who operate an employee pension scheme to temporarily suspend or limit spending of employee pension scheme funds in times of financial difficulty.
- **The period of notice has been reduced from 12 to 3 months in the event of a unilateral decision by an employer to liquidate an employee pension scheme.**

The proposal has been submitted to the Sejm. Under the proposal, the new provisions would mostly come into force on April 1, 2022.

More on this topic can be found here:

<https://www.sejm.gov.pl/sejm9.nsf/druk.xsp?nr=1998>

Shortening of quarantine, home isolation and isolation periods due to COVID-19

Based on the regulation of the Minister of Health of February 10, 2022, amending the regulation of February 25, 2021:

- the minimum period of isolation of a person with clinical symptoms will be reduced from 10 to 7 days;
- the time during which a general practitioner can extend home isolation for a person with clinical symptoms has been reduced from 8 to 6 days;
- the isolation period of a person who tested positive for SARS-CoV-2 without clinical symptoms has been shortened from 10 to 7 days, with the exception of:
(i) extension by a general practitioner - possible up to 6 days of isolation; (ii) people participating in the provision of healthcare services - isolation ends 7 days after the first test with a positive result, as well as in the case of a negative result of the SARS-CoV-2 test;
- a household member of a person under home isolation is, as a rule, quarantined for the duration of home isolation, with the exception of: (i) household members whose isolation, home isolation or hospitalization ended within the 30 days preceding a test in which the person subject to isolation tested positive; (ii) cases where quarantine of a household member ends on the day on which a negative result of the test of a person subject to isolation is entered into the ICT system made available by the unit subordinate to the minister competent for health matters, being responsible for healthcare information systems; (iii) if the household member is for example (among other things) a person involved in the provision of healthcare services, the quarantine period is reduced to 5 days, unless the person has a daily antigen test for a period of 5 days, before beginning to provide healthcare.



The regulation entered into force on February 15, 2022.

More on this topic can be found here:

<https://dziennikustaw.gov.pl/D2022000035401.pdf>

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This legal alert does not constitute any form of legal advice.

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