

The Salary System in the Private Sector in the Republic Slovenia

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In the article the authors discuss the salary system in the private sector in the Republic of Slovenia. They present relevant legislation dealing with remuneration, in particular the Employment Relations Act, which regulates individual employment relations and in a separate chapter regulates remuneration. Remuneration includes a salary and other additional payments. The authors treat all the components of a salary, i.e. the basic salary, extra payments, the part of the salary based on job performance, and the payment for positive business performance. Other additional payments are payments in kind or in money, in securities, or profit-related pay, i.e. the participation of employees in profit sharing. The authors also treat other income of employees laid down in the Employment Relations Act and collective agreements as well as the reimbursement of expenses related to work. The authors also focus on the obligatory content of an employment contract with reference to remuneration. Finally, they address open issues regarding types of other additional payments and possible solutions for determining individual remuneration instruments in collective agreements and in employment contracts.

Key words: salary system, remuneration, salary, components of a salary, other additional payments

1 Introduction

Following the declaration of independence in 1991, the Republic of Slovenia embarked on labor law reform fairly late. Until 2003 employment relations were regulated by the Basic Rights Stemming from the Employment Act,¹ which was a law of the Socialist Federative Republic of Yugoslavia. Labor law reform only began after the ownership transformation of companies in the mid-nineties of the past century. The new Employment Relations Act² (hereinafter referred to as the ERA) was adopted only in 2002, and it entered into force on the 1st January 2003. The ERA is a fundamental act that regulates individual employment relations. The salary system is regulated in a separate chapter entitled *Remuneration*.

The new ERA retained the unity of employment relations. It applies to all employees, in the private as well as in the pub-

lic sector, and thus it also regulates the employment relations of the employees hired by the state bodies, local communities, institutions, other organizations, and private persons performing public services.

In July 2002, the National Assembly of the Republic of Slovenia adopted the Civil Servants Act³ (hereinafter referred to as the CSA), which in the first part regulates common principles and other common issues of the civil service system for the entire public sector, and in the second part determines the particularities of the employment relations of civil servants employed in state bodies and in local community administrations.⁴ In relation to the ERA, the CSA is a special law for which the doctrine *lex specialis derogat legi generali* applies, i.e. a law governing a specific subject matter (*lex specialis*) is not overridden by a law governing general matters (*lex generalis*).

¹ *Zakon o temeljnih pravicah iz delovnega razmerja*, Official Gazette SFRY, Nos. 60/1989, 42/1990. Following the declaration of independence in 1991, on the basis of the Constitutional Act Implementing the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia (Ustavni zakon za izvedbo temeljne ustavne listine o samostojnosti in neodvisnosti Republike Slovenije, Official Gazette RS, No. 1/1991), until issuing its own regulation, the Republic of Slovenia was to apply, *mutatis mutandis*, as its own regulations the regulations of the Socialist Federative Republic of Yugoslavia which were not contrary to its legal order and if this Constitutional Act didn't provide otherwise.

² *Zakon o delovnih razmerjih*, Official Gazette RS, Nos. 42/2002, 103/2007.

³ *Zakon o javnih uslužbencih*, Official Gazette RS, Nos. 63/2007 – officially consolidated text, 65/2008

⁴ Civil servants are individuals employed in the public sector. Civil servants are officials who perform public tasks and professional-technical civil servants who perform demanding auxiliary work. High officials in state bodies and local community bodies are not deemed to be civil servants.

In the field of salary system regulation, the ERA, as already stated above, dedicated an entire chapter to the mentioned subject and regulated to a fairly high degree of detail salaries and some other income (e.g. pay for annual leave, retirement severance pay) as well as the reimbursement of expenses related to work. In this respect autonomous acts are also important, i.e. collective agreements, which, as a general rule, regulate the salary system in a salary annex to the relevant collective agreement. Furthermore, a special act was adopted for employees in the public sector, i.e. the Salary System in the Public Sector Act⁵ (hereinafter referred to as the SSPSA), which regulates all details of the salary system of high officials, directors, and other representatives of legal entities governed by public law (e.g. deans, principles, hospital administrators), and civil servants in the public sector.⁶ The SSPSA regulates only salaries, and not other employees' incomes.

In the field of collective labor law, the Collective Agreements Act⁷ was adopted in May 2006. New collective agreements at the branch level and collective agreements at the company level are adopted on its basis. The General Collective Agreement for the Commercial Sector⁸ was abrogated in 2005 and ceased to be in force at the end of June 2006. An important feature of the cited collective agreement was that it applied for all employers in the private sector, which was to the benefit of employees, as they were recognized more rights than determined in the ERA. Pursuant to the Collective Agreements Act, employers are bound by those collective agreements at the branch level which apply to employers associations that the employer is member of (e.g. a commercial company is a member of a commercial association and thus the employer is bound by the collective agreement for commerce). In view of the fact that membership in employers' associations is voluntary many employers are not members of such associations and therefore they are not bound by collective agreements at the branch level. However, in order to avoid great differences between employees with reference to the harmonization of salaries, payments for annual leave, and the reimbursement of expenses related to work, the social partners signed a special collective agreement which determines the minimum payments for the above-stated purposes and which applies to employers who are not bound by any of the collective agreements at the branch level.

In 2003, the new Labor and Social Courts Act⁹ was adopted, which contains a new regulation of judicial protection in individual and collective labor disputes as well as in social disputes. Furthermore, the Minimum Wage Act¹⁰ and recently the Financial Participation Act¹¹ were also adopted.

The ERA is the most important act by which the salary system in the Republic of Slovenia is regulated along with autonomous acts, primarily collective agreements.

2 General Information on the Salary System and the Statutory Basis for Remuneration

One of the fundamental rights of employees is to receive remuneration for their work and one of the fundamental obligations of employers is to pay their employees for the work performed. A salary is the basis for paying contributions for various social insurances, e.g. retirement insurance, disability insurance, unemployment insurance, parental leave insurance, maternity leave insurance. Employees are the weaker parties in a contractual relation with their employer and thus the provisions of labor law protect them against irregularities in determining their remuneration. Employees are entitled to a salary, which must always be paid in the form of money, as well as to other additional payments (e.g. payments in kind, securities), the reimbursement of expenses related to work, various salary compensations, and other incomes (e.g. pay for annual leave, a bonus based on years of service, solidarity allowance).

Remuneration is not only an important component of the employment contract in a bilateral relation between employee and employer, but the established salary system in the country greatly influences, *inter alia*, the socio-economic conditions in the country, its economic and social development, the labor market, unemployment, inflation, gross domestic product growth, as well as the degree of respect of human rights, especially rights to social security. This is why the state also interferes with the salary system by adopting regulations and by being a partner in social bargaining. The social partners determine the frameworks of the salary system by a social agreement. Consequently, determining remuneration is not left merely to a contractual agreement between employees and employers. Finally, this field is regulated by international as well as national provisions which guarantee a minimal scope of rights to the employees, whereas collective agreements at the branch level and collective agreements at the company level determine in more detail the scope of the rights which are recognized.

In addition to the ERA, which is a fundamental act that regulates the salary system in the private sector, the Minimum Wage Act is also important. The latter determines a minimum

⁵ *Zakon o sistemu plač v javnem sektorju*, Official Gazette RS, Nos. 95/2007 – officially consolidated text, 17/2008. The SSPSA entered into force in 2002, and will be fully implemented in September of this year.

⁶ The CSA and the SSPSA both determine what the public sector comprises: state bodies and local community administrations; public agencies, public funds, public institutions, and public commercial institutions; other entities governed by public law provided that they indirectly use state or local budgetary funds.

⁷ *Zakon o kolektivnih pogodbah*, Official Gazette RS, No. 43/2006.

⁸ *Splošna kolektivna pogodba za gospodarske dejavnosti*, Official Gazette RS, No. 40/2007.

⁹ *Zakon o delovnih in socialnih sodiščih*, Official Gazette RS, Nos. 2/2004, 10/2004 – corr.

¹⁰ *Zakon o določitvi minimalne plače*, Official Gazette RS, No. 114/2006.

¹¹ *Zakon o udeležbi delavcev pri dobičku*, Official Gazette RS, No. 25/2008.

salary which employees must be guaranteed regardless of their work results.¹² The ERA lays down the minimal scope of rights regarding remuneration, which may be broadened by collective bargaining or the employment contract. This is a principle *in favorem laboratoris*, which is determined in the second paragraph of Article 7 of the ERA, and according to which the employment contract and collective agreement may determine rights which are more favorable for employees than those determined by the ERA.

The statutory remuneration regulations in the Republic of Slovenia respect relevant international documents which bind employers to appropriately pay employees for their work. These international documents are:

- the Universal Declaration of Human Rights (adopted and proclaimed by the General Assembly of the United Nations in 1948) in Article 23 binds together the right to remuneration and the right to work, and in the relevant part reads as follows: "Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.";
- the International Covenant on Economic, Social and Cultural Rights (adopted by the General Assembly of the United Nations in 1966), which in Article 7 determines the right to remuneration which provides all workers, as a minimum, with fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work and a decent living for themselves and their families;
- the European Social Charter (first adopted by the Council of Europe in 1961 and revised in 1996), which recognizes all workers the right to fair remuneration sufficient for a decent standard of living for themselves and their families (the fourth paragraph of Part I of the revised Charter);
- numerous conventions of the International Labor Organization (hereinafter referred to as the ILO), e.g. ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, ILO Convention No. 95 concerning the Protection of Wages.¹³

The Republic of Slovenia has also implemented all directives referring to individual labor law, including the directives referred to remuneration. These directives are:

- Council Directive 75/117/EEC of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women;
- Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for

men and women as regards access to employment, vocational training and promotion, and working conditions, amended by the Council Directive 2002/73/EEC;

- Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer;
- Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship;
- Council Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex;
- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin;
- Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation;
- Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

3 The Salary System as Determined by the Employment Relations Act

In the former system remuneration for employees' work was regulated only by collective agreements at different levels, particularly by the general collective agreement and collective agreements at the branch level. The ERA laid down the salary system in a separate chapter entitled *Remuneration* primarily in order to ensure the greater security of employees.¹⁴ The first paragraph of Article 126 of the ERA determines that remuneration is composed of the salary and other additional payments if they are provided for in the collective agreement. The ERA does not define a salary, however, it does determine that the salary is composed of:

- the basic salary;
- the part of the salary based on job performance;
- extra payments;
- the payment for positive business performance, if so determined by a collective agreement or the employment contract.

The ERA explicitly determines that the salary must always be paid in the form of money and that the employer must respect the minimum salary laid down by the law or the collective agreement. Other additional payments are not regulated in the ERA, however, the ERA does determine that

¹² A minimum wage is determined by ILO Convention No. 131 concerning Minimum Wage Fixing. The objective of the Convention was to prevent exceptionally low salaries and thereby to ensure the minimum social security of employees and their families. The Socialist Federative Republic of Yugoslavia ratified the Convention in 1982, and the Republic of Slovenia acceded to it in 1992. At present, the gross minimum wage in the Republic of Slovenia is 566 EUR, which places us in the middle of all 27 Member States of the EU.

¹³ The Republic of Slovenia has not ratified this Convention.

¹⁴ Employers criticize the detailed regulation of remuneration in the law. In their opinion, the salary system should be regulated by collective agreements.

eventual payments in kind must be provided in a manner laid down in the employment contract with regard to the nature of the work and existing custom. The legislature thus left it to autonomous acts, i.e. collective agreements and employment contracts, to determine any other eventual payments, except for the salary, which is defined by law in order to protect the weaker party in the employment relation, i.e. employees.

On the basis of the above-mentioned provisions of the ERA, it may be concluded that the salary is an obligatory remuneration, whereas other additional payments are obligatory only if laid down by a collective agreement or an employment contract.

Collective agreements determine starting salaries for individual tariff classifications.¹⁵ The starting salaries in each of the tariff classifications may not be lower than the minimum salaries determined in the Minimum Wage Act.¹⁶

The minimum salary is the lowest salary which must be ensured to the employees. The minimum salary prevents employers from paying low salaries in the lower tariff classifications and ensures that the salary has a "social element" in order to ensure employees and their families a decent life. These provisions protect employees, as the weaker party in the employment relation, against receiving salaries under the precise limit and against receiving payment in kind instead of money (e.g. in vouchers, in products that the employer produces), which would not cover the employees' living expenses and those of their families.¹⁷

3.1 Salary

A **salary** is one of the types of remuneration specified by employment contract. It is an obligatory and principal remuneration, which must be paid in the form of money. It is one of the fundamental rights of employees, and is regulated in detail by the ERA.

The ERA defines that the salary is composed of:

- the basic salary;
- the part of the salary based on job performance;
- extra payments;
- the payment for positive business performance, if determined by a collective agreement or the employment contract.

The ERA does not provide a definition of salary. The only definition that can be found is that of the **basic salary** in individual collective agreements at the branch level, which defines that the basic salary for full-time work, job perform-

ance defined in advance, and normal working conditions may not be lower than the starting salary of the relevant tariff classification.

The ERA does not define the amount of the basic salary. The amount of the basic salary is determined by the social partners in the collective bargaining and in salary annexes to collective agreements.

In accordance with the ERA, the **job performance** of an employee is determined by taking into consideration the economy, quality, and amount of work performed for which the employee has concluded the employment contract. The actual amount of this part of the salary is left to collective bargaining in accordance with the criteria defined in advance, whereby the ERA does not specify the upper limit. Even if the employee does not achieve the required work results, i.e. if the economy, quality, and agreed amount of his or her work are not satisfactory, his or her salary may nevertheless not be lower than the minimum salary.

The ERA determines that employees are entitled to **extra payments** for special working conditions related to the schedule of the work hours. Such extra payments must be paid for night work, overtime work, Sunday work, and work on certain statutory holidays and non-working days.¹⁸ The amount of such extra payments is determined by collective agreements at the branch level.

Other extra payments for jobs having an extra work load, for working in a hazardous environment, and for work hazards may also be determined by collective agreements.

The ERA also provides for an **extra payment for years of service**, whereas its amount is specified by collective agreements at the branch level.¹⁹ Pursuant to the transitional provision of Article 238 of the ERA, the employees who at the time of the coming into force of the ERA received an extra payment for years of service in the amount of 0.5% of the basic salary for each completed year of service, keep such extra payment regardless of the amount of the extra payment defined by the collective agreement at the branch level unless the ERA or the employment contract stipulate a higher amount. It represents a payment which was implemented in the former social order in which employment relations were not based on bilateral employment contracts between employees and employers, but the employees worked with resources which were socially owned (i.e. an associative employment relation). Thus, the extra payment for years of service was recognized for all years of service regardless of how much time the employee had been working for the individual employer.

¹⁵ As a general rule, collective agreements contain IX tariff classifications, into which job positions are classified according to the level of education required.

¹⁶ A minimum salary is the salary of an employee who works full time or whose working time is regarded as a full time if so determined by law, collective agreement, or a general act, regardless of the employee's job performance. Since March 2008, the gross minimum salary in the Republic of Slovenia has been 566 EUR.

¹⁷ In 2007 approximately 23,000 employees in the Republic of Slovenia, i.e. 3% of all employees, received the minimum salary.

¹⁸ *Zakon o praznikih in dela prostih dnevih v Republiki Sloveniji* (The Holidays and Non-Working Days in the Republic of Slovenia Act), Official Gazette of RS, Nos. 26/1991, 112/2005, regulates statutory holidays and the days that are not statutory holidays but are non-working days, i.e. certain religious holidays (Easter Sunday and Monday, White Sunday, Assumption Day, Reformation Day, and Christmas) are non-working days.

¹⁹ Employers argue that an extra payment for years of service should be abolished. In their opinion it is an institution from the former system of employment relations.

A **payment for a positive business performance** is an integral part of the salary if so determined by a collective agreement or the employment contract. Neither the ERA nor any other law determines in which cases it is considered that the company has had a positive business performance. The definition of positive business performance is autonomously defined by the company. As a general rule it is measured in terms of the realized business objectives of the individual company.

If we consider Article 126 of the ERA, which states that the payment for positive business performance is also an integral part of the salary and that the salary must always be paid in the form of money, then the above-mentioned statutory provision regarding the payment for positive business performance is rigid. In view of the fact that it is a variable and optional part of the salary which depends on the positive business performance of the company and not on the individual employee, this part of the salary could be paid to the employees also in the form of securities, business shares, or in kind. The Council Recommendation of 27 July 1992 concerning the promotion of participation by employed persons in profits and enterprise results (including equity participation) (92/443/EEC) also requires that the Member States should encourage financial participation in the profits and enterprise results, however, not as part of the salary. It determines that the existence of financial participation schemes should not, however, stand in the way of normal negotiations dealing with the wages and conditions of employment or of setting wages and working conditions through such negotiations.

3.2 Other Additional Payments

In addition to the salary, employees may also receive **other additional payments**. The ERA does not define other additional payments. The legislature left the settlement of such payments to collective agreements or employment contracts, thus to autonomous regulation. A commentary on the ERA (Belopavlovič and Mežnar, 2003, 518) states that such payments are various payments in kind, e.g. accommodation, food, use of a vehicle for personal purposes, other goods or services, vouchers. With regard to the payments in kind, the ERA determines that if the parties to the employment contract agree on such payments, the manner in which such payments are provided is laid down in the employment contract (the fifth paragraph of Article 134 of the ERA). The right to such payments and their form are thus stipulated in the employment contract. Such payments are in practice known as bonuses. This term derives from taxation regulations, primarily from the Personal Income Tax Act²⁰ (hereinafter referred to as the PITA). Article 27 of the PITA determines that bonuses are all benefits in the form of products, services, or other benefits in kind which are given to employees or their family members by employers or other persons stemming from employment. Bonuses include use of a vehicle for personal purposes, accommodation, a loan without interest or with an interest rate

lower than the interest rate on the market, a discount on goods or services, tuition fees for employees or their family members, insurances or similar payments, gifts given by employers to former, present, or future employees or their family members, and the right of employees to buy shares.

From the labor-law point of view, the above-listed bonuses can only help define other types of payments in kind. In addition to the above-listed bonuses, the following can also be regarded as payments in kind, e.g. the use of vacation or health resort apartments, a parking space, clothing, payments in the form of vouchers or products, the payment of collective voluntary supplementary pension insurance or other voluntary insurance (e.g. life, accident, health insurance), purchasing pension credit for the period of time spent at university or in the military. The ERA does not restrict the contractual autonomy in stipulating types of payments. The only rule that must be observed is the general principle that parties may not agree on payments which are explicitly prohibited by regulations or are contrary to morals, and that employees may not be awarded other additional payments instead of the salary.

In Slovenia, all the above-listed forms of payments are not widely applied in practice primarily because of taxation obligations and obligations concerning contributions for social security. The exceptions are bonuses in the form of the use of a vehicle for personal purposes for managers, and various supplementary insurances as well as the use of vacation or health resort apartments for other employees. With the reference to recognizing other types of payments, the question whether such payments are part of the salary in a broader sense will need to be answered *de lege ferenda* considering the fact that the taxes and contributions must be paid also for such payments the same as for salaries, and thus they should be taken into account when calculating the pension basis for an employee. According to the present regulation, however, irrespective of the fact that contributions for social security must be paid from such payments, they are not considered when a pension basis is calculated.

4 Profit-Related Pay (i.e. The Participation of Employees in Profit Sharing) as a Type of Remuneration

In the chapter on remuneration, the ERA also regulates the profit-related pay of employees although the participation of employees in profit sharing is an institution of commercial law (Article 139 of the ERA). In accordance with the Companies Act,²¹ distributable profit may namely be distributed among the employees if such is provided for by the articles of association of the company and if the annual general meeting of the company so decides.

Profit-related pay is not part of the salary but is an additional payment which is regulated by the Financial Participation Act.

²⁰ *Zakon o dohodnini*, Official Gazette RS, No. 21/2006 – officially consolidated text.

²¹ *Zakon o gospodarskih družbah*, Official Gazette RS, Nos. 15/05, 42/06, 60/06, 10/08.

In the European Union this type of payment has developed in the last decade. Council Recommendation No. 92/443/EEC encourages the Member States to increase the participation of employed persons in profits and enterprise results, thus they should ensure that legal structures are adequate to allow the introduction of the financial participation by means of fiscal or other financial advantages.

5 Other Payments

In addition to the salary and other additional payments, the ERA also regulates other payments to which employees are entitled due to their status. Such payments are compensations, which the employers are obliged to pay, the reimbursement of expenses, and other income.

5.1 Salary Compensation

The ERA determines for which types of absences from work employees are entitled to compensation that employers are obliged to pay. The ERA also lays down the amount of such compensation. According to the ERA, employees are entitled to salary compensation which is paid from the employers' funds for the period of absence from work in the following instances: illness or injury which is not related to work, occupational illness and injury at work, annual leave, statutory holidays and non-working days, education, when the employee does not perform his or her work due to reasons from the side of the employer, paid absence due to personal circumstances (e.g. employee's wedding, death of a family member), and others.

In all the above-stated instances, except for absence from work due to illness or injury not related to work, employees are entitled to salary compensation in the amount of their average monthly salary during the past three months or during the period they worked in the past three months. If during the entire period of the past three months an employee did not receive at least one monthly salary, he or she is entitled to salary compensation in the amount of the minimum salary.

In instances of absences from work due to illness or injury not related to work, an employee is entitled to salary compensation in the amount of 80 percent of the employee's salary in the previous months for full-time work (the seventh and eighth paragraphs of Article 137 of the ERA).

5.2 Pay for Annual Leave

Pay for annual leave does not need to be regulated in collective agreements because it is regulated by the ERA and is also a subject of regulation and bargaining of the social partners in the social agreement. Pay for annual leave may, however,

be regulated by collective agreements at different levels if such regulation is more favorable for employees. The ERA ensures employees an annual pay for annual leave at least in the amount of the minimum salary.²²

5.3 Retirement Severance Pay

The ERA determines that employees are entitled to retirement severance pay upon retirement in the amount of two average monthly salaries in the Republic of Slovenia for the past three months or in the amount of two average monthly salaries of the employee for the past three months, whichever is more favorable for the employee (the first paragraph of Article 132 of the ERA). Collective agreements may determine that the amount of a retirement severance pay is higher than the amount determined by the ERA, taking into consideration the principle *in favorem laboratoris*.

5.4 Reimbursement of Expenses Related to Work

With the reference to the reimbursement of expenses related to work, a basic principle applies whereby such expenses must be reimbursed to employees if they in fact incurred such. The ERA determines that the employer must ensure employees the reimbursement of meal expenses during the work, for travel expenses to and from the work, and of expenses employees incurred during business trips while performing tasks related to work. In accordance with the second paragraph of the Article 130 of the ERA, if the amount of the reimbursement of expenses is not determined by a general collective agreement, it must be determined by an executive regulation. In view of the fact that an executive regulation is an authoritative act of the state, the above-cited provision can be understood such that the state protects employees in cases in which the social partners did not agree on the amount of the reimbursement of expenses to the employees. The employers criticize the statutory regulation of the reimbursement of expenses for meals during the work and travel expenses to and from the work, as, in their opinion, recognizing such expenses to employees has a negative influence on their competitiveness on the international market, as such expenses are not determined by law in other members states of the European Union and the reimbursement of expenses to employees is therefore not obligatory.

6 Other Payments Determined by Collective Agreements

Certain payments to employees are not determined by the ERA, they are, however, recognized to employees on the basis of collective agreements.

²² Collective agreements determine that gross pay for annual leave in 2008 amounts to 665 EUR, or for companies which operated with a loss in the last financial year, it amounts to at least the statutorily determined gross minimum salary, i.e. 566 EUR, on the day that pay for annual leave is paid. In 2009 gross pay for annual leave will amount to 686 EUR, or in companies which operated with a loss in the last financial year, it will amount to at least the statutorily determined gross minimum salary on the day that pay for annual leave is paid.

6.1 Allowance for Living Apart from One's Family

An employee is entitled to an allowance for living apart from one's family if he or she lives away from his or her permanent or temporary residence because of work. The allowance for living apart from one's family is intended to cover expenses for accommodation and meals while the employee lives away from his or her permanent or temporary residence. Collective agreements or an employment contract may determine the amount of such allowance, and the period of time and the distance from the employee's permanent or temporary residence that are required for such allowance to be recognized.

6.2 Bonuses Based on Years of Service

The ERA does not determine any bonus based on years of service; such bonus is, however, determined in collective agreements. The bonus based on years of service is, as a general rule, recognized for either 10, 20, 30, or 40 years of service with the last employer.

6.3 Solidarity Allowance

As a general rule, collective agreements provide for solidarity allowances for employees and their family members in cases of accidents and longer illnesses. Collective agreements precisely determine in what instances employees are entitled to such allowance, who is considered an employee's family member, and what the amount of such allowance is to be.

7 Employment Contracts and Reimbursements

Provisions on reimbursement are obligatory components of each employment contract, as reimbursement is one of the fundamental rights of employees. The obligatory components of an employment contract are determined in Article 29 of the ERA. An employment contract is a pecuniary contract. Thus, one of the obligatory components of the employment contract is the provision on the amount of the employee's basic salary expressed in Euros, which the employee is entitled to in accordance with the employment contract, the provision on the part of the salary based on job performance and extra payments, as well as the provision on the payment for positive business performance and other additional payments, if such are agreed.

7.1 Provisions on the Amount of the Basic Salary

Employment contracts must contain a provision on the amount of the employee's basic salary, which must be expressed in Euros. The basic salary of an employee is determined in accordance with the classification of his or her job position in

the tariff classification in the relevant collective agreement. If the employee does not achieve the required work results, his or her basic salary may be lower; nevertheless, it may not be lower than the minimum salary determined by the law.

7.2 Other Additional Payments

Other additional payments may be provided to employees in a manner as stipulated in the employment contract regarding the nature of his or her work and the existing practice. Other additional payments are payments in kind, e.g. the use of a vehicle for personal purposes, accommodation, securities (shares) or business shares, money. Other additional payments are provided to employees on the basis of collective agreements, or they may be stipulated in the employment contract.

7.3 Provisions on Other Components of the Salary, on the Payment Intervals, on the Day of Payment, and on the Manner of Paying the Salary

Other components of the salary are part of the salary based on job performance, extra payments, and the payment for positive business performance. The second paragraph of Article 29 of the ERA determines that these payments must not be stipulated in the employment contract, but the parties may refer to the laws, collective agreements, or the employer's general act. Provided that the parties to the employment contract refer to the above-mentioned acts, they must precisely state the titles of these acts, the date of their publication, and where they were published, so that the employee may at anytime review their content. The provisions of the above-mentioned acts to which the employment contract refers are deemed components of the employment contract, which entails that any amendment to the law, collective agreement, or employer's general act does not affect the rights determined in the employment contract, i.e. the employee must retain all the rights which are stipulated in the employment contract if they are more favorable for the employee (Article 49 of the ERA). However, if the provisions of the amended acts are more favorable for the employee, they do apply.

7.4 Payment Intervals

The salary must be paid to employees in payment intervals which may not be longer than one month. The salary must be paid at the latest on the 18th day in the month for the previous month. If the day of the payment is not a working day, the salary must be paid at least on the first following working day of the employer (Article 134 of the ERA). The most common manner of paying the salary is payment to the employee's bank account, which is laid down in the employment contract. The provisions on payment intervals are important from the point of view of the predictability and regularity of payments so that the employees may plan their expenses accordingly.

8 Conclusion

In every country the salary system is an important segment of the regulation of macroeconomic relations and of employment relations between employees and employers. In the Republic of Slovenia, statutory provisions lay down minimum standards of remuneration, which may be further developed in collective bargaining agreements between social partners by determining more rights for employees. Furthermore, the complete freedom of determining more favorable rights for employees is left to employers and employees, who may agree on a higher salary or more favorable other additional payments in an employment contract. The autonomy of contracting parties is, however, restricted by a minimum salary determined by law and by the provision that the salary must always be paid in the form of money. This does not apply for other payments which may be paid to the employees in kind, in securities, business shares, or money.

In practice, other additional payments are being used increasingly; however, the development of these is slow due to the taxation obligations and those for paying various contributions. According to the taxation regulation, other additional payments are regarded as bonuses and for all bonuses and other income stemming from the employment relation (except for a few exceptions) employers must pay taxes and contributions. According to the present regulation, however, irrespective of the fact that taxes and contributions must be paid from such payments, they are not considered when the pension basis is calculated.

Literature

- Belopavlovič, N. & Mežnar, D. (2003), *Zakon o delovnih razmerjih s komentarjem*, GV Založba, Ljubljana.
- Blanpain, R. (1990), Flexibility and Wages, A Comparative Treatment, Bulletin of Comparative Labour Relations, No. 19-1990, Kluwer, Deventer-Boston.
- Ivanjko, Š. (1999), Udeležba na dobičku z davčnega vidika, *Pravna praksa*, 18(4), Ljubljana, annex I-VII.
- Končar, P. (2002), Splošni akti delodajalcev v sistemu delovno-pravnih virov, Inštitut za delo pri Pravni fakulteti v Ljubljani, *Delavci in delodajalci*, 2002(2), 397-407.
- Kresal, B. (2001), *Pravna ureditev plače*, Bonex založba, Ljubljana.
- Mermet, E. (2001), *Wage Formation in Europe*, Brussels.
- Mežnar, D. (1998), Plačilo za delo v pogodbenih delovnih razmerjih, *Podjetje in delo*, 1998(6-7), 1106-1116.
- Vaughan-Whitehead, D. (1995). *Workers' financial participation: East-West experiences*, ILO Geneva.

Sources

- Act Amending the Minimum Wage Act (*Zakon o dopolnitvi Zakona o določitvi minimalne plače*), Official Gazette RS, No. 36/2008.
- Act Fixing the Reimbursement Amounts for Work Related Expenses and Certain Other Income (*Zakon o višini povračil stroškov v zvezi z delom in nekaterih drugih prejemkov*), Official Gazette RS, Nos. 97/1997, 9/1998.

- Basic Rights Stemming from Employment Act (*Zakon o temeljnih pravicah iz delovnega razmerja*), Official Gazette SFRY, Nos. 60/1989, 42/1990.
- Civil Servants Act (*Zakon o javnih uslužbencih*), Official Gazette RS, Nos. 63/07 - official consolidated text, 65/2008.
- Collective Agreements Act (*Zakon o kolektivnih pogodbah*), Official Gazette RS, No. 43/2006.
- Companies Act (*Zakon o gospodarskih družbah*), Official Gazette RS, Nos. 15/2005, 42/2006, 60/2006, 10/2008.
- Employment Relations Act (*Zakon o delovnih razmerjih*), Official Gazette RS, Nos. 41/2002, 103/2007.
- Financial Participation Act (*Zakon o udeležbi delavcev pri dobičku*), Official Gazette RS, No. 25/2008.
- Holidays and Non-Working Days in the Republic of Slovenia Act (*Zakon o praznikih in dela prostih dnevih Republiki Sloveniji*), Official Gazette of RS, Nos. 26/1991, 112/2005.
- Labour and Social Courts Act (*Zakon o delovnih in socialnih sodiščih*), Official Gazette RS, Nos. 2/2004, 10/2004 - corr.
- Personal Income Tax Act (*Zakon o dohodnini*), Official Gazette RS, No. 21/2006 - official consolidated text.
- Salary System in the Public Sector Act (*Zakon o sistemu plač v javnem sektorju*), Official Gazette RS, No. 95/2007 - official consolidated text, and No. 17/2008.

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Plačni sistem v zasebnem sektorju v Republiki Sloveniji

Avtorji obravnavajo plačni sistem v zasebnem sektorju v Republiki Sloveniji. Predstavljajo plačilo za delo po Zakonu o delovnem razmerju, ki zajema plačo in druge vrste plačil. Nadalje razdelajo posamezne elemente plače: osnovno plačo, dodatke in del plače za delovno ter poslovno uspešnost. Poleg plače zaposleni lahko prejmejo tudi druge vrste plačil, v naravi ali v denarju, v skladu z ureditvijo v kolektivnih pogodbah ali pogodbi o zaposlitvi.

Ključne besede: plačni sistem, plačilo za delo, plača, sestavine plače, drugi prejemki