

SERBIA: EMPLOYMENT

Amendments to Labour Law give greater protection to pregnant workers and workers who have recently given birth

Recent amendments to the Labour Law give additional protection to female employees who are pregnant or have recently given birth. The amendments came into force on 8 April 2013 (*Zakon o izmenama i dopunama zakona o radu, "Sl. glasnik RS" br. 32/2013*).

Prior to the amendments, an employment contract concluded for a fixed period could expire according to its terms even if the female employee became pregnant or took maternity leave, childcare leave or special childcare leave during the contract period.

As a result of the amendments to the law, an employment contract concluded for a fixed period shall be extended "until the expiry of the use of the right to leave". It is not clear from this formulation whether a contract concluded for a definite period of time may expire prior to the commencement of maternity leave, while the employee is on sick leave for reason of pregnancy.

The Labour Law provided, even prior to the recent amendments, that the employer may not dismiss an employee during pregnancy, maternity leave, childcare leave or special childcare leave. The amendments specify that the decision on dismissal is null and void if the employer was aware, when rendering the decision, that the female employee is pregnant or on permitted leave and also if the female employee notifies the employer of any of these circumstances within 30 days from the receipt of the decision on her dismissal. The amendments have unfortunately omitted to clarify that the prohibition pertains to dismissal of pregnant women on ground of her pregnancy (see Article 10 of [Council Directive 92/85/EEC](#)), and not to dismissal on other unrelated grounds such as breach of work duties or work discipline.

Protection from expiry of fixed term employment contract and dismissal during childcare leave and special childcare leave also applies to male employees using one of these leaves.

The amendments introduce special benefits for breastfeeding mothers who return to work before the expiry of one year from the childbirth if their working day is at least six hours long. Such employees are entitled to one or more breastfeeding daily breaks in total duration of 90 minutes or to working hours reduced by 90 minutes. The breaks are included in regular working hours. The law does not require the employer to provide adequate space for breastfeeding.

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