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## AGREEMENTS ON WORK PERFORMED OUTSIDE AN EMPLOYMENT RELATIONSHIP

The most common form of employment is known as an employment relationship. However, the Labor Code recognizes three additional forms of employment that are collectively referred to as *agreements on work performed outside an employment relationship*<sup>1</sup>. If work is defined by its results, an *agreement to perform work* may be concluded. In the case of occasional work where the type of work is defined, an *agreement on performance of work* or *agreement on student temporary work* may be considered.

An employment relationship established by one of the agreements on work performed outside an employment relationship (hereinafter collectively as “**agreement**” or “**agreements**”) is substantially more flexible and less formal as compared with an employment relationship. As opposed to an employment relationship, agreements do not entitle persons to vacations, wage compensation during obstacles to work, overtime pay or contributions for meal vouchers.<sup>2</sup> However, unlike an employment relationship agreements cannot secure a working relationship where the employer is able to take advantage of the employee’s work for the long term for the entire working time, i.e., 40 hours per week. The Labor Code stipulates that these types of agreements are to be used exclusively for occasional work, such as for small tasks or for work that is on a one-off basis. Agreements then tend to be only a sort of supplement to the fundamental labor relationship – the employment relationship – because the employment relationship is the primary form of labor relationship to be used by an employer to carry on the activities of which its scope of business is comprised. An employer should only occasionally conclude agreements to perform tasks, especially in cases where a regular employment relationship would be inexpedient or uneconomical for the employer for such tasks or activities.

What is the difference between the individual types of agreements on work performed outside the employment relationship?

### Agreement to Perform Work

An agreement to perform work may be concluded where the anticipated scope of the work (job duties) does not exceed **350 hours** in a calendar year. Work performed by the employee for the employer pursuant to another agreement to perform work is included in the anticipated scope of work.

A written agreement to perform work must be concluded at least one day prior to the date the job is to begin.

The agreement to perform work must contain:

- definition of the work task,

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<sup>1</sup> § 223 et seq. of Act No. 311/2001 Coll., the labor code (hereinafter “Labor Code”).

<sup>2</sup> This is because only the first section of the Labor Code applies to labor relationships established by agreements on performance of work outside an employment relationship.

- compensation for performance of such work,
- the period for which the work task is to be performed, and
- the anticipated scope of the work if not apparent from the definition of the work task.

The work task must be performed within the agreed period; otherwise, the employer may withdraw from the agreement. The employee may withdraw from the agreement if he cannot perform the work task because the employer did not create the agreed working conditions. The employer must compensate the employee for any damage thus incurred.

The compensation for performing the work task is payable after the work is completed and delivered. The parties may agree that a portion of the compensation will be payable only after a certain portion of the work task is performed. The employer may reasonably reduce the compensation upon agreement with the employee in the event the work does not correspond to the agreed terms and conditions.

### **Agreement on Student Temporary Work**

The basic prerequisite for concluding this type of agreement is the student status<sup>3</sup> of the person who concludes the agreement as employee. Another condition for concluding this agreement is that the scope of work may not exceed on average one-half of the designated weekly working time. Compliance with the agreed and maximum allowable scope of working time is assessed for the entire period for which the agreement is concluded; this agreement cannot be concluded for a period of more than 12 months.

The agreement on student temporary work must contain:

- agreed type of work,
- compensation for performance of such work,
- agreed scope of working time, and
- the period for which the agreement is concluded.

The agreement on student temporary work is concluded for a fixed or indefinite period. The agreement may contain the manner of termination thereof. Confirmation of student status comprises an inseparable part of the agreement. Immediate termination of the agreement may only be agreed in the cases where an employment relationship may be immediately terminated<sup>4</sup>. If the manner of termination is not implied directly in the concluded agreement, it may be terminated by agreement between the parties as at the agreed date, or unilaterally only by notice of termination without stating cause with a 15-day notice period that commences on the day the written notice of termination is delivered.

### **Agreement on Performance of Work**

Work may be performed for no more than 10 hours per week under an agreement on performance of work. This limit may not be exceeded in any week.

The agreement on performance of work must contain:

- agreed type of work,
- compensation for performance of such work,
- scope of working time, and

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<sup>3</sup> A student is a natural person having a labor-law personality who is continually preparing for a profession.

<sup>4</sup> § 68 through 70 of the Labor Code.

- the period for which the agreement is concluded.

The agreement on performance of work is concluded for a fixed or indefinite period. The agreement may contain the manner of termination thereof. As with the agreement on student temporary work, immediate termination of this particular agreement may only be agreed for cases where an employment relationship may be immediately terminated. If the manner of termination is not implied directly in the concluded agreement, it may be terminated by agreement between the parties as at the agreed date, or unilaterally only by notice of termination without stating cause with a 15-day notice period that commences on the day the written notice of termination is delivered.

### **Common to all Agreements**

Agreements on work performed outside an employment relationship may be concluded more or less by anyone<sup>5</sup>, even a person who is already employed in a proper employment relationship. An employee in an employment relationship does not need the consent of his employer in order to sign an agreement. However, this does not apply if the work to be performed under the agreement is identical to the (full-time) employer's scope of business. An employee may, alongside his/her employment, perform gainful activities which are identical to the scope of the employer's business only with the prior written consent of that employer.<sup>6</sup>

It is important to remember when concluding any type of agreement that it must be concluded in writing in order to be valid. One counterpart of the agreement must be given to the employee.

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<sup>5</sup> The exception is an agreement on student temporary work, which can be concluded only by a student. In addition, in order to protect juveniles the Labor Code stipulates that these agreements may be concluded with juvenile employees only if the juvenile's healthy development, safety, morals or training for a profession will not be jeopardized.

<sup>6</sup> § 83 of the Labor Code.