

Decision of the Supreme Court of the Republic of Lithuania.

**LINK**

On 2 February this year the Supreme Court of Lithuania issued a decision in a labour case providing important clarifications on the employer's obligation to offer vacancies to dismissed employees.

According to Article 57(1)(1) of the Labour Code, an employer may dismiss an employee when the job function performed by the employee has become superfluous due to changes in work organisation or other reasons related to the employer's activities.

This ground for dismissal is particularly relevant for financial institutions, which often must let go of employees who perform functions that become redundant for them as a result of organisational changes. However, the dismissal of an employee based on Article 57(1)(1) of the Labour Code often gives rise to legal disputes, as dismissal on this basis is only possible **if during the period from the notice of termination of the employment contract to five working days before the end of the notice period, there is no vacancy at the workplace that the employee could be transferred to with his or her consent.**

The Supreme Court has clarified how the employer's obligation to offer vacancies to employees must be ensured in practice:

- Information on available vacancies may be provided to the dismissed employee not only individually but also by means of a public notice;
- An employee may be reassigned to another job, not only by the initiative of the employer but also on his/her own initiative;
- It would be an infringement if the employee was not given full information about vacancies in the company, if his/her requests for transfer were not taken into account, or if the transfer was unjustifiably refused.

Our recommendation:

If your company is going through organizational changes or must make redundancies for other reasons, we recommend that you make a thorough assessment of the vacancies in the company for which the dismissed employee is suitable and to which he/she can be transferred with his/her agreement. We recommend that you always inform the employee individually in writing on your own initiative, giving as much information as possible about the vacancies, so that in the event of a dispute, you can provide factual evidence that you have complied with the obligations laid down in Article 57 of the Labour Code.

If you fail to do so, the court may order you to reinstate the employee (if possible) and you may be liable to pay the average remuneration for the period of forced absence, up to one year, as well as compensation for material and non-material damages suffered.

Information from the Ministry of Social Security and Labour.

**LINK**

1st February each year the Minister of Social Security and Labour of the Republic of Lithuania approves the size of late fees payable by an employer to an employee for late payment of employment-related payments.

This year, a higher rate of late fee - **0.1% for each day of delay of payment** - has entered into force. Previously, the rate was 0.08%.

Late fees start to accrue from the first day of delay until the date of payment.

In the event of bankruptcy - the calculation of late fees shall cease upon entry into force of the court ruling to institute bankruptcy proceedings or from the day of the meeting of creditors during which the creditors resolved to implement out-of-court bankruptcy proceedings.

Our Recommendation:

As a reminder, if you are more than 2 months late in paying an employee, the employee may terminate the employment relationship on his/her own initiative. In this case, you would not have to pay a late fee, but the average monthly salary for each month of delay, up to a maximum of 6 months.

We recommend that you take steps to ensure that payments to your employees are always made on time, as you may be liable for late fees or up to 6 months' average salary

