The Essentials About Croatian Employment Law provides investors and legal practitioners an insight into the essentials of the Croatian employment law

Introduction

Croatia

The Republic of Croatia belongs to Central European, Adriatic/Mediterranean and Pannonian/Danubian circle of countries lying between Slovenia, Hungary, Serbia, Bosnia and Herzegovina, Monte Negro and Italy. Croatia's total surface area is 56,594 km² (out of which 31,479 m² territorial waters) and has the population of 4.1 million people. It has 1,185 islands, islets and reefs of which 66 are inhabited. The capital is Zagreb with a population of close to 1 million.

After more than 50 years being a part of the socialist Yugoslavia, the Croatian Parliament proclaimed the Constitution of the Republic of Croatia on 22 December 1990 (Constitution). According to the Constitution of 1990, as amended, the state is organized on the principle of separation of powers into legislative, executive and judicial branches.

Croatia is a parliamentary democracy where the parliament as a body vested with legislative authorities plays the most important role. The Parliament consists of the chamber of representatives whose members are elected for terms of four years.

The President of the Republic of Croatia, who represents Croatia and who is the formal head of the State, is elected directly by the people for a term of five years and for a maximum of two terms. The Government of Croatia, which consists of the president and one or more vice-presidents and ministers, exercises executive powers.

The Constitution grants the citizens the right to local and regional self-government. The local self-government units are municipalities and cities and the regional self-government units are counties ("županije"). Self-government units have their own revenues which they may freely dispose with in exercising public authorities. For administrative purposes, Croatia is currently territorially divided into 20 counties (the City of Zagreb is a special and separate territorial and administrative unit), 428 municipalities and 127 cities.

Croatia is a civil law country where the codified statues constitute the primary source of law. According to the Constitution, once officially ratified and published in the Official Gazette the concluded treaties and international agreements are a superior legal source to internal law.

On 1 July 2013 Croatia became the 28th Member State of the EU. Regulations and directives are transposed into national law and are superior to domestic laws passed by the parliament.

Court practice is not a direct source of law, however the case law, in particular that established by the Croatian Supreme Court, is commonly applied by courts of lower instances and may have

considerable influence on the application and implementation of the law. Conflicts among legal sources are resolved by the legal principles governing their hierarchy and relationship to each other which means that higher ranked norms generally override lower ranked norms.

The Parliament passes laws by a majority vote, provided that a majority of its representatives are present at the session. Certain laws (organic laws) may be adopted by a majority vote of all the representatives.

All Croatian laws and regulations are published in the Official Gazette of the Republic of Croatia ("*Narodne novine")* and may be accessed online in the Croatian language free of charge at the following web address: https://www.nn.hr/

I. Hiring

A. Basics of Entering an Employment Relationship

At-Will v. Just Cause

Croatia may generally be categorised as an "at-will" employment jurisdiction. However there are a few statutory exceptions from this principle.

Under the Professional Rehabilitation and Employment of Disabled Persons Act (Art. 8-10 of *Zakon o profesionalnoj rehabilitaciji i zapošljavanju osoba s invaliditetom, Official Gazette No. 157/13, 152/14, 39/18 and 32/20*), an employer employing the minimum of 20 employees is obliged to hire certain number of disabled individuals at appropriate workplaces. The percentage of disabled persons shall not be lesser than 2% of the total number of the employees. The disabled persons include employees with any impairment, students with learning disabilities, college students with disabilities, disabled individuals working on the basis of professional training contract and persons with disability for whose education the employer provides scholarships. Such an obligation does not apply to foreign diplomatic and consular missions, integrative or protective workshops. This obligation may be redeemed by payment of compensation to the state. When hiring the state authorities, public institutions, legal persons owned by the state shall give priority to the disabled person.

The Art. 35 of the Act on the Rights of Croatian Homeland War Veterans and Their Families (*Zakon o pravima hrvatskih branitelja iz Domovinskog rata i članova njihovih obitelji, Official Gazette No. 121/17)* grants priority for employment in public authorities, public institutions and legal persons owned by the state to:

- a child of the Croatian Homeland war veteran that was killed in the Homeland war without both parents;
- Croatian Homeland War-disabled veteran;
- a family member of the killed Croatian Homeland War veteran;
- Croatian Homeland War volunteer;
- Croatian Homeland War veteran provided such a person meets all the requirements that

are the condition for employment.

In terms of termination, Croatia follows a "just cause" principle. Termination of employment in Croatia is governed by the Employment Act (*Zakon o radu*, *Official Gazette No. 93/14, 127/17 and 98/19)*. Subordinately, employment relationship is subject to general contract law principles. Employer is not entitled to arbitrary terminate employment contract unless one or more of the statutory grounds for termination of employment exist. Dismissal for any reason that cannot be justified under any one or more of these grounds shall be considered unlawful, and the employee may initiate the procedure for the protection of his/her rights.

Whether the employment contract has been justifiably terminated shall be decided by the court in each particular case. Both employer and the employee are entitled to terminate employment contract at any time if their mutual consent exists.

Both parties to the employment contract (*i.e.* employer and employee) shall respect mandatory notice periods. Only exceptionally, both the employer and the employee may terminate employment contract with immediate effect.

B. Discrimination

The Anti-Discrimination Act (*Zakon o suzbijanju diskriminacije, Official Gazette No. 85/08 and 112/12*) prohibits any direct or indirect discrimination on the basis of race, skin colour, sex, sexual orientation, language, religion, political or other belief, national or social background, financial state, birth, social status, membership or non-membership in a political party, union, association or any physical or emotional disability. Prohibition of discrimination applies to criteria for hiring of employees, promotion, occupational guiding, training and retraining. A number of exceptions from the application of the strict anti-discrimination rules prescribed by the Anti-Discrimination Act exist *e.g.* in case of requirements of particular job, implementation of certain social security measures, *etc*.

The Gender Equality Act (*Zakon o ravnopravnosti spolova*, *Official Gazette No. 82/08, 125/11, 20/12, 138/12 and 69/17*) prohibits any discrimination based on gender in both public and private sector. The employers are required to advertise vacancies using such a language that would not discriminate one specific gender, unless certain sex is a compelling requirement for particular job.

C. Employment Applications

During the application process (job interview, testing, questionnaire), the employer is not entitled to raise questions that are not immediately related to employment (Art. 25 of the Employment Act). The candidate is not obligated to answer such impermissible questions. If he/she decides to answer it, the provided answer may be incorrect.

The employee is obligated to notify the employer about the disease or any other circumstance that may prevent or significantly interfere with the fulfilment of the obligations from employment or that may endanger the life or health of other persons (Art. 24 of the Employment

Act). During the employment application procedure, the employer may request an employee to undergo medical exam, costs of which shall be borne by the employer.

D. Use of Employment Contracts

Employment relationship is established by the conclusion of the respective employment contract. As a rule, an employment contract in Croatia shall be in writing; however, the lack of written form shall not affect the establishment of employment relationship. Failure of the parties to conclude written employment contract does not affect the existence and validity of employment.

Just a fact that a person has employment contract shall not be decisive element for deciding whether a person performing certain work should be considered an employee. Generally, three main criteria indicating employment relationship may be summarized as follows: i) superior-subordinate relationship between the employer and the employee; ii) remuneration for the performed work; and iii) personal performance of work by the employee. Also, the dependence of the employee on the employer regarding: (i) workplace; (ii) working hours; and; (iii) working tools may be considered as additional criteria.

If the employer and the employee fail to conclude written employment contract, the employer is obliged to issue a written record of concluded employment contract before commencement of the work, otherwise it may be deemed that the parties have concluded an indefinite term employment contract. Also, the employer may be fined up to HRK 100,000 (EUR 13,000).

E. Advertising/Recruitment

The Employment Act does not provide for the obligation of performing job recruitment procedure. Also, it does not specify the documentation which is to be delivered to the employer.

However, in case of employment with public authorities or legal persons owned by the state, a public tender procedure for the workplace shall be published in the Official Gazette and on the web-site of the respective institution. Otherwise, employment without respecting these rules may result in annulment of employment.

Ordinarily job offers are published in all different types of media, particularly on certain web-sites and in certain daily newspapers.

F. Background Checks/Employment References

In the course of the recruitment process in Croatia, it is common to demand written/oral confirmations of the previous candidate's employers, school reports, university degrees and recommendations.

Employers are not authorized to require certificate from the court register evidencing previous criminal convictions or criminal procedures pending against the job candidates, unless in case of explicit authorisation provided for by the law (*e.g.* pursuant to Art. 49 of the Public Servants Act - *Zakon o državnim službenicima, Official Gazette No. 92/05, 142/06, 77/07, 107/07, 27/08, 34/11, 49/11, 150/11, 34/12, 49/12, 37/13,38/13, 01/15, 138/15, 61/17, 70/19 and 98/19).*

II. Compensation

A. Minimum Wage

The Minimum Wage Act (*Zakon o minimalnoj plaći, Official Gazette No. 118/18*) defines the minimum wage as the lowest amount of monthly gross wage, which the employee is entitled to for the full-time work. All the employees employed in Croatia are entitled to obtain at least statutory prescribed minimum wage. The minimum wage does not include the increases in wages that shall be remunerated for overtime work, night work and work on Sundays, holidays or any other day that is determined by law as a non-working day. The minimum wage of the employee employed in part-time shall be determined and paid in proportion to the respective working hours, determined by the employment contract. The amount of minimum wage is determined once a year for the following year. The minimum gross wage in 2020 amount is HRK 4,062.51 HRK (EUR 540) (*Government Ordinance on the Minimal Wage Amount - Uredba o visini minimalne plaće*, *Official Gazette No. 106/19).*

B. Wage Payments & Deductions

Wage which is paid in form of money shall be paid monthly for the work performed in the previous month. Unless otherwise specified by the collective agreement or employment contract, wage for the previous month of work, shall be paid before 15th day of the following month at the latest.

An employer bound by a collective agreement shall not calculate and pay to the employee a wage in the amount that is lesser than the amount established by the collective bargaining agreement. Collective bargaining agreements usually provide for premium payments for particular types of work performed, *e.g.* night work, work under noisy conditions, particularly heavy work, *etc*.

If the basis and criteria for salaries have not been established by the collective bargaining agreement, an employer employing more than 20 employees is required to adopt them in the employment by-laws.

If the wage cannot be determined on the basis of the collective bargaining agreement or the employment contract, the employer is obligated to pay the appropriate wage to the employee. The appropriate wage is a wage regularly paid for equal work, and if it is impossible to establish the amount of such a wage, a wage shall be established by the court according to the circumstances of the case.

C. Minimum Age/Child Labour

A person under fifteen years of age or a person of fifteen years of age or above fifteen but under eighteen years of age, who is still attending compulsory primary education, may not be employed. Minor older than fifteen years of age, except for a minor attending compulsory

primary education, is authorised to conclude an employment contract, if he/she has the authorisation of their legal representative.

Every person who is not a "minor" (*i.e.*, under the age of 18 years) may conclude an employment contract. In certain cases, minors can be bound by service contracts.

Child labour is generally prohibited. Only under certain circumstances are children allowed to perform minor works (until age 15 years, or at a later stage if obligatory school is terminated after age 15), provided the child is not exposed to accident risk or other risks.

The work of minors is subject to different regime in the area of the right to pay-offs and breaks, which rules protect minors. The night work of minors is prohibited. Also, a minor may not be employed in such jobs that may threaten the safety, health, morals or development. Prior to recruitment, the employer must examine the minor's health capacities.

In certain branches of business such as theatre, film, TV, children under the age of 15 may be eligible to work provided the additional consent of a particular work inspector and their legal representative has been obtained.

D. Overtime Requirements

In case of *force majeure*, extraordinary increase of the work and in other similar cases, the employee must at the employer's request, work longer than the regular working hours ("overtime work") but not more than ten hours a week. The overtime work of an individual employee may not exceed one hundred and eighty hours per year unless if the overtime work has been regulated in the collective bargaining agreement in which case it may not exceed 250 hours per year.

The overtime work performed by minor employee is prohibited. A pregnant employee, a parent of a child under three years of age, a single parent of a child under six years of age and a part-time employee may work overtime only if their written consent to perform overtime work exists. The labour inspector is entitled to prohibit overtime work if such work adversely affects health, working ability and safety of the employee.

The employee is entitled to receive increased wage for the performed overtime work.

E. Workday/Workweek/Work hours

Weekly working time shall not exceed forty hours (regular working time). Unless working hours are specified by the law, collective bargaining agreement, works agreement, or employment contract, regular working hours are considered to be forty hours a week.

Part-time work is considered to be any working time that is shorter than the regular working hours. Working hours are shortened in proportion to the harmful effects of working conditions on the employee's health and working ability in respect to such jobs where, despite the application of occupational safety and health measures, it is impossible to protect the employee from harmful effects. Collective bargaining agreements may limit working hours and/or increase compensation for certain periods of working time, in particular for overtime and/or work at night and on weekends.

The employer and the employee are entitled to agree flexible working hours. This is usually agreed in case when the employee performs work from remote place (home). In case of flexible working hours, the employment contract must contain provisions on duration of a normal working day or week and also daily, weekly or monthly period of the employee's obligatory presence at the working place.

If the work process with an employer is organized in shifts, full-time or part-time work need not be distributed evenly by weeks. In such cases full-time or part-time working hours shall be determined as average weekly working time within a period of four months and any discrepancies from full-time regular working hours may not amount more than twenty-four hours a month. Also, the employee is not allowed to work more than 48 hours a week.

Where the nature of work so requires, full-time or part-time working hours may be rescheduled so that in the course of one calendar year there may be a period of time with working hours that are longer and another period of time with working hours that are shorter than full-time or part-time working hours, provided that average working hours in the course of rescheduling may not exceed full-time or part-time working hours. Rescheduled working hours are not considered to be overtime work. If working hours are rescheduled, they cannot, including overtime work, exceed 48 hours a week during the period when they last longer than full-time or part-time working hours. Rescheduled working hours may, during the period when they last longer than full-time or part-time working hours, exceed 48 hours a week and may last up to a maximum of 56 hours a week (exceptionally 60 hours in case of a seasonal work) on condition that this is provided for by a collective agreement and that a written statement about voluntary consent to such work is submitted to the employer by the employee. An employee who refuses to work for more than forty-eight hours a week in the course of rescheduled working hours shall not suffer any adverse effects as a result of such refusal.

F. Benefits/Health Insurance

The Act on Mandatory Health Insurance (*Zakon o obveznom zdravstvenom osiguranju*, *Official Gazette No. 80/1, 137/13 and 98/19*) regulates mandatory health insurance of employees. In principle, every employee is covered by social insurance by virtue of law as of the day of commencement of work. The employer shall register employees with the Croatian Health Insurance Institute within 8 days as of the starting day of employment.

The employer shall notify Croatian Health Insurance Institute of all the relevant changes and is further liable for administering payments of social insurance contributions.

Mandatory health insurance generally provides for free of charge medical assistance which is provided by a large number of physicians and hospitals that have entered into an agreement with the Croatian Health Insurance Institute.

III. Time Off/Leaves of Absence

A. Paid Time Off

During the calendar year, employee has the right to be released from work and to receive compensation of wage (paid leave) for the maximum period of seven working days for important personal needs or education and personal training. The periods of paid leave are considered as time spent at work in relation to acquisition of the rights arising from employment or related to employment.

Vacation Pay

Employee is entitled to a minimum of four weeks of annual paid leave in each calendar year. A minor employee or an employee carrying out work at which workers cannot be protected from harmful effects despite the application of all occupational safety and health measures are entitled to paid annual leave in the duration of at least five weeks for each calendar year.

The duration of annual leave for a period that is longer than the minimum period may be regulated by the employment contract, employment by-laws or the collective bargaining agreement. National holidays and periods of temporary inability to work confirmed by an authorised physician are not calculated in the annual paid leave. An agreement under which an employee waives his or her right to annual leave or accepts payment of compensation in lieu of annual leave is null and void.

An employee who is employed for the first time or an employee whose interruption of work between two consecutive employments is longer than eight days acquires the right to annual paid leave after six months of uninterrupted work. An employee is entitled to one-twelfth of the annual paid leave for each full month of service if: (i) in the calendar year in which his or her employment commenced, no title to annual paid leave has been acquired because the work lasted less than six-months; (ii) employment has been terminated before the expiry of six-month service; (iii) the employment is terminated before 1 July; (iv) during the calendar year employee has been employed by several employers.

During the annual paid leave, employee is entitled to full compensation that equals the amount of the average wage paid to him/her (including wage in kind) within last three months prior to annual paid leave. The employee can take annual leave in two portions, unless otherwise agreed with the employer. If the employee takes annual leave in portions, the first portion, lasting at least two weeks without interruption, must be used in the calendar year for which the right to annual leave is acquired. Any outstanding annual leave may be carried over and must be taken no later than 30 June of the next year. In case of termination of employment, employee is entitled to receive compensation for the unused holidays.

Sick Leave Pay

In the case of illness or injury, employees are entitled to receive full regular compensation from their employer for a specified period of time, unless they intentionally disabled themselves or if

inability is a result of their gross negligence. The maximum period of compensation in the case of illness or injury is dependent on the years of service with the employer and on the cause of the inability to work. In case the inability to work is a result of an industrial accident or an industrial disease, the employee is usually entitled to receive compensation for a longer period. The usual period of full compensation ranges from a minimum of six weeks to a maximum of 12 weeks, depending on the duration of employment. In addition to these periods, employees are entitled to compensation at one-half of their wage for an additional four weeks.

B. Family and Other Medical Leave

Employees may use their paid time off to fulfil their needs related to marriage, childbirth, serious illness or in case of a death of a member of their immediate family. Employees who are voluntary blood donors are entitled to one day off work on account of voluntary blood donation, which may be taken during the calendar year.

C. Disability Leave

The employer may grant the employee unpaid leave, at his or her request. Unless otherwise specified by the law, during the unpaid leave, the rights and obligations from employment or related to employment shall be suspended.

D. Pregnancy Leave/Paternal Leave

Parents including adoptive parents are entitled to time related and financial supports. Time related supports are: (i) leaves; (ii) exemption from work; and (iii) additional time for child care. A pregnant employee is obliged to use maternity leave for a period of 28 days before the expected birth and up to 70 days after the childbirth. After expiration of the compulsory maternity leave, the mother is entitled to additional leave up to the child's age of six months which right she may transfer to the father of the child. After the expiry of maternity leave, both parents are entitled to use parental leave in duration from 6 (for the firstborn and second child) to 30 months (for twins, third or any subsequent child) until the child's 8th year of age. Exceptionally if the parental leave is used by both parents instead of 6 it shall be 8 months.

Depending on the family circumstances (*e.g.* the need of intensified care of the child) or some special occasion (need of nurturing) parents may be entitled to additional leave or benefits at work such as half-time work *etc.* Pregnant woman or nursing mother facing potentially harmful working conditions (*e.g.* night work, other work which may endanger her or child's health) enjoys protection from harmful effects of such work. The employer must offer such mother the possibility of transfer to other appropriate workplace. If the employer fails to secure adequate workplace, the employee is entitled to a paid leave and her wage may not be minimised.

IV. Discrimination& Harassment

A. Discrimination

Pursuant to the Anti-Discrimination Act employees subject to discrimination might claim

damages from the employee for the breach of the employment relationship. In addition, an employee may discontinue work with the employer during the period when conditions for discrimination exist and still retains his or her entitlement to all payments as if he/she is still working.

Once the employer receives the complaint by the employee claiming discrimination, the employer is required to examine employee's allegations and take all necessary measures that deem to be appropriate for preventing further violation of the employee's rights. If the employer fails to protect the employee, the employee is entitled to seek protection from the court and discontinue with further work for as long as the circumstances of discrimination exist.

In certain cases, the employee may discontinue work without previously filing the complaint with the employer. During the discontinuation of a work, the employee is entitled to receive wage compensation in the amount equal as if he/she had actually worked.

B. Harassment and Bullying

The Anti-Discrimination Act and Gender Equality Act outlaw any sexual harassment by the employer, as well as the failure of the employer to prevent sexual harassment at the workplace by third parties. If sexual harassment occurs, the employee might claim damages against both the third party and the employer, and the employer may be fined for misdemeanour up to HRK 350,000 (EUR 46,000).

V. Termination/Dismissal Issues

A. Overview

Both employer and the employee may terminate employment subject to prescribed or agreed notice period (so called regular dismissal). The employer may give notice due to: (i) business reasons (if a need for performing certain work ceased due to economic, technological or organizational reasons); (ii) personal reasons (if the employee is not capable of fulfilling employment-related duties because of some permanent characteristics or abilities); (iii) employee's misconduct (if the employee violates employment obligation); and (iv) failure of the employee within the probation period. On the other hand, the employee is entitled to terminate employment without specifying particular reason. The fixed term contract may regularly be terminated only if such a possibility is provided for in the employment contract.

B. Justification for Dismissal

The procedure of termination of employment due to business reasons depends on whether the employer employs more than 20 employees in which case social criteria (*e.g.* length of service, age and support obligations) shall be observed or less than 20 employees where no restrictions in respect to observance of social criteria apply. Some of the common reasons justifying termination of employment due to business reasons recognized by the courts are cancellation of certain departments within the company or decrease in a number of employees due to unprofitability (economic reason), redundancy due to automation of the business operations/tasks

(technical reason) or redundancy due to reorganization of business and elimination of business units within the company (organizational reason).

C. Mandatory Severance Pay

If the employee is dismissed after two-year of continuous service with the same employer, unless dismissal is given for the reasons related to the employee's misconduct, the employee is entitled to statutory severance pay which amount depends on the length of service. Severance pay for each year of employment with the same employer may not be agreed upon or determined in the amount that is lower than one-third of the average monthly wage earned by the employee in a period of three months prior to termination of employment. Unless otherwise specified by the law, collective bargaining agreement, employment by-laws or employment contract, the employer's liability to pay severance pay is limited to the amount that equals six average monthly salaries earned by the employee within the last three months before termination of employment.

Special rules apply to the employees who have suffered a work injury or acquired some occupational disease, and who may not be returned to work after completion of treatment and recovery, in which case such an employee is entitled to severance pay in the amount of at least double the amount they would be entitled to receive if no such circumstances existed. In case the employee was absent from the work for just cause such as sick leave or if no wage has been paid to the employee within the last three months before dismissal, the basis for calculation of the wage (severance pay) is wage which should have been paid to the employee in case he/she had performed work regularly.

D. Use of Severance Agreements and Releases

Notwithstanding mandatory severance, severance pay may be paid in accordance with the provisions of the employment contract, collective bargaining agreement, works agreement or employment by-law. In any case severance pay may not be contracted, *i.e.,* set at less than one-third of the average monthly salary earned by the worker in the three months prior to termination of the employment contract, for each year of work with that employer. Unless otherwise provided by law, collective bargaining agreement, works agreement or employment by-law, the total amount of severance pay may not exceed six average monthly salaries earned by the worker in the three months prior to the termination of the employment contract.

E. Legal Challenges to Dismissal

In order to prevent abuse of the employee's rights, the employer who has given notice to the employee due to economic, technological or organizational reasons may not employ another employee on the same job within the next six months following the notice. If within this period, a need for employment of another employee for the same job position arises, the dismissed employee has a priority in concluding the new employment contract. A breach of this restrictive covenant shall not affect termination but the employer may be fined up to EUR 8,000 (HRK 60,000).

Notice period depends on the employee's length of service with the employer. The minimum notice period is two weeks in case the employee has spent less than one year of an interrupted service with the same employer, whereas the notice period applying in case of an uninterrupted service of twenty years with the same employer, amounts three months. Additional prolongations of the notice period are possible depending on the age of the employee whereas the maximum notice period may not exceed four months. In case of ordinary termination of employment due to employee's misconduct, the notice period shall be reduced to half of the belonging statutory notice period. The employer and the employee may agree that the employee ceases to perform work tasks already before expiry of the notice period in which case the employee is entitled to salary and all other rights from employment as if he/she had worked until the expiry of the notice period. In certain cases, such as during the pregnancy, parental leave, part time work or abbreviated work due to child's care, temporary inability to work, annual paid leave and other cases of justified absence from work, termination period stays still. In case of termination by the employee, the notice period may not exceed one month provided there is a justified reason for application of such a short term. In case of extraordinary termination, no notice period applies whereas the employment ends by delivery of the notice of termination to the employee.

Both parties to the employment agreement are entitled to "extraordinary notice" with immediate effect, if due to especially grave violation of employment obligation or due to any other highly important fact, considering all the circumstances and mutual interests, the continuation of the employment is no longer possible. Justified grounds for extraordinary termination are not defined in the law but in case of dispute shall be subject to examination by the court in each particular case and to that extent the court practice may practically be considered as immediate legal source (*e.g.* theft of the employer's assets and consequently lack of employer's confidence in employee, misuse of a sick leave, loss of required license for performance of certain type of work, performance of competing tasks during the employment *etc.*) Extraordinary termination may only be given within fifteen days as of employer's discovery of the fact which serves as the basis for termination. Any notice given upon expiry of this term shall be invalid.

Apart from general rules that govern termination of employment contract, the Employment Act recognizes certain types of employees that enjoy special protection. Special rules apply to: (i) minor employees; (ii) pregnant employees; (iii) during maternity leave, exercise of right to shortened working time, adoption leave and leave for taking care of the child with serious developmental problems, and during a period of fifteen days after the end of pregnancy or the cessation of the exercise of these rights; (iv) employees suffering injury at work or occupational disease as long as they are temporarily unable to work due to medical treatment or recovery; (v) members of the works council and trade union representatives. Dismissal of the said groups of employees without approval of the works council shall be invalid. If the works council refuses to approve termination, the employer may ask from the court/arbitrage tribunal to approve dismissal.

The failure of employee to meet employer's expectations within the probationary period is also considered a justified reason for termination of employment. The decision on termination must

be in writing, but there is no need for the employer to explain the reasons for termination. The notice period is seven days.

If employee considers termination ungrounded, he/she may challenge termination by filing legal remedy – a request for protection of rights within fifteen days as of receipt of the employer's decision. If the employer does not meet the employee's request within next fifteen days, the employee may, within following fifteen days, file a law suit requesting realization of the affected right (usually declaration of the termination as void). A procedure shall be conducted before municipal courts. Employment disputes are considered urgent procedures which must be completed in the first instance within six months. The appellate court shall decide appeals within thirty days. A term for providing a response to the claim is eight days. A burden of proof lies with a person that requires protection or realization of certain right. If the dispute concerns validity of employment termination a burden of proof lies with the employer. Exceptionally, in case the employee terminates employment contract with immediate effect, a burden of proof lies with the employee.

If the court finds termination invalid the employer is obligated to enable the employee further work and provide reimbursement of unpaid salaries for the lapsed time. If during the procedure the court finds termination invalid but at the same time that it is not acceptable for the employee to continue employment with the same employer, the court shall upon employee's demand declare termination of employment and order the employer to compensate the employee for the suffered damages. The amount of indemnity depends on the length of service, age and supporting obligations of the employee and amounts from three up to eight times the regulated or agreed monthly salaries.

F. Employment References

Upon termination of employment, the employer is obligated to issue to the employee a written reference certificate ("*Potvrda o zaposlenju*"), specifying, as a minimum requirement, the type of work performed (position of the employee) and the length of service. The certificate must not contain any information that might impede the employee's efforts to find a new job.

VI. Layoffs/Work Force Reductions/Redundancies

A. Overview

Collective dismissal rules apply in case the employer intends to dismiss at least twenty employees within ninety days provided at least five of the employees are dismissed due to business reasons. In that case, the employer has to perform consultations with the works council or in case the works council has not been established with the trade union commissionaire. The collective dismissals performed against the applicable rules shall be deemed invalid. The employees are entitled to challenge dismissals before the competent court. Also, they shall enjoy all the rights from the social security plan.

B. Procedure

The employer is obligated to provide the works council with all the relevant information as to the reasons for the redundancies, the number and categories of employees who are most likely to be made redundant, the total number and categories of employees, any additional criteria which the employer shall take into account when deciding on redundancies, the amounts and the methods for calculating severance pay and other payments. Also, the employer is required to inform the competent employment service of the performed consultations with the works council.

The employer may not dismiss redundant employees in a period of thirty days counting from the submission of the notification of the performed consultations to the public employment service. The public employment service may suspend the dismissals for all or a part of employees for a maximum period of thirty days if the application of the active employment measures in respect to such employees is possible.

Severance Pay

In such business branches where layoffs are to be expected, collective bargaining agreements occasionally provide for measures that serve to mitigate the consequences for the terminated employees in the case of mass layoffs.

Benefits

All outstanding payments for overtime work have to be paid to the employee at the end of the employment contract. Employees might also be entitled to certain pro-rata payments on certain bonus payments even if they effectively become due only at the end of the year in which the employment contract has been terminated (*e.g*. certain bonuses).

Severance Packages/ Separation Agreements

In practice, particularly with employees of higher qualifications, employment contracts are terminated by mutual agreement between the employer and the employee.

From the employer perspective, it is advisable to agree expressly on all monetary issues to be granted to the employee. It should be clearly stated in the mutual termination agreement that claims made by an employee arising from the employment relationship shall finally be settled so that the employee does not claim further payments in the future. It generally is advisable to also agree on a non-competition and confidentiality clause to be respected by the employee after termination of the employment contract.

VII. Unfair Competition/Covenants Not to Compete

A. Trade Secrets

Protection of trade secrets is governed by the Law on Protection of Unpublished Information with Market Value (*Zakon o zaštiti neobjavljenih informacija s tržišnom vrijednosti, Official Gazette No. 30/2018,*). Previously, trade secret was defined within the Law on Classified

Information (*Zakon o tajnosti podataka, Official Gazette No. 79/07 and 86/12*) and the Law on Protection of Classified Information (*Zakon o zaštiti tajnosti podataka, Official Gazette No. 108/96*) and was considered to be anything defined as trade secret by law or other regulation, or by general act of a company, institution or other legal entity, that represents a production secret, results of research and construction work, and other information, disclosure of which to an unauthorized person could have adverse effects to the holder's economic interests.

The Law on Protection of Unpublished Information with Market Value does not strictly define what a trade secret is; instead it introduces the following criteria on the basis of which certain information may be considered a trade secret:

a) it is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question - includes specific knowledge, experience, business information and technological information held by the trade secret holder;

b) it must be of market (commercial) value because of its secrecy – information is considered to have market value if the unlawful acquisition, use or disclosure of such information could harm the interests of the person lawfully controlling it as this could impair the trade secret holder's scientific and technical potential, business or financial interests, strategic positions or the ability to compete within the market;

c) that in respect to such information, the person lawfully controlling the information has taken reasonable steps to preserve its secrecy - reasonable steps may include the drafting of an internal document or act on the handling of trade secrets, designating authorized persons and their rights and obligations to handle trade secrets, implementation of other measures of physical or virtual access restriction to the trade secret as well as restrictions on handling such trade secrets.

The acquisition, the use and the disclosure of a trade secret contrary to the Law on Protection of Unpublished Information with Market Value shall be deemed illegal.

B. Covenants Not to Compete

According to the Employment Act, the employee shall not, without the approval of his or her employer, conclude business transactions, for his own account or for the account of another, in the field of activity of his or her employer ("statutory prohibition of competition"). If the employee fails to comply with this statutory prohibition, the employer may claim compensation for damages from the employee or may require that the business transaction be considered as concluded for the employer's account, or that the employee give the employer the profit earned from such transaction or transfer to the employer any claims for profits earned from such a transaction. These employer's rights cease to exist three months after the date on which the employer learnt that the business transaction had been concluded, and in any case five years after the date on which the transaction was concluded. If, at the time of commencement of employment, the employer was aware of the fact that the employee was engaged in certain business activities and did not require from the employee to stop engaging in such activities, it

shall be considered that the employer gave the employee approval for engaging in such activities.

Beside statutory prohibition of competition the employer and the employee may stipulate that, for a certain time after the termination of the employment contract, the employee must not enter into employment with another person who is competing on the market with the employer, and that the employee must not conclude business transactions that constitute competition with the employer, neither for his own account nor for the account of another ("contractual prohibition of competition").

Such contract must not be concluded for a period longer than two years after the date of the termination of employment and is not binding on the employee if the aim of the contract is not to protect the legitimate business interests of the employer or if, taking into account the area, time and aim of the prohibition and in relation to the legitimate business interests of the employer, the contract disproportionately limits the work and promotion of the employee. The concluded non-competition contract shall be considered null and void if it is concluded by a minor employee or by an employee who, at the time the contract is concluded, is receiving a wage amounting less than the average wage in the Republic of Croatia. Also, the contractual prohibition of competition shall be binding on an employee only if the employer has undertaken a contractual obligation to pay compensation to the employee for the duration of the prohibition, amounting to at least half of the average wage paid to the employee in the period of three months prior to the termination of the employment contract. If only a contractual penalty has been provided for the case of violation of a contractual prohibition of competition, the employer may, in accordance with the general provisions of the law of civil obligations, claim only the payment of this penalty, and not the fulfilment of the obligation or compensation for greater damages.

C. Solicitation of Customers & Employees

The prohibition of solicitation of customers and employees or attempting to induce any employee or employer’s client to terminate his or her relationship with the employer is not governed by the Employment Act. Despite the fact that there is no explicit statutory prohibition of solicitation of customers, in practice the employer and the employee may stipulate that for a certain period of time after the termination of the employment contract, the employee is obliged not to persuade or attempt to persuade any employee or employer’s customer or client to terminate his business relationship with the employer, and in the event of breach of that obligation, a contractual penalty of a predetermined amount is often negotiated.

D. Breach of Duty of Loyalty/Breach of Fiduciary Responsibility

Regarding statutory prohibition of competition, if the employee fails to comply with this statutory prohibition, the employer may claim compensation for damages from the employee or may require that the business transaction be considered as concluded for the employer's account, or that the employee give the employer the profit earned from such transaction or transfer to the employer any claims for profits earned from such a transaction. For the case of violation or breach of a contractual prohibition of competition contractual penalty is predetermined (for more

detailed information, please see section VI. B). A contractual penalty of a predetermined amount is often negotiated with regards to non-solicitation and confidentiality clauses as they should be evaluated the same way as non-competition clauses.

Trade secrets are protected through the Law on Protection of Unpublished Information with Market Value which clearly defines that illegal (i) acquisition, (ii) use, and (iii) disclosure of a trade secret is prohibited. The acquisition, use or disclosure of a trade secret is considered illegal if the person knew, or should have known, at the time of acquiring, using or disclosing that the trade secret was acquired directly or indirectly from another person who unlawfully used or disclosed the trade secret. The Law on Protection of Unpublished Information with Market Value prescribes measures for the trade secret holder to protect their interests by filing following requests to a competent court:

• Request for finding that a violation occurred, cessation of said violation and prohibition of the use or disclosure of trade secrets;

• Request for the prohibition of the production, offering, placing on the market or use of the infringing goods;

• Request for broad remedial action to be taken in respect of goods that have been infringed;

• Request to order the destruction and/or return in whole or in part of all documents; objects, materials, substances or electronic files that contain a trade secret or which are a trade secret in themselves;

• Claim for damages or a claim for acquisitions without sound legal basis;

• Request for publication of the judgment;

• Request for submission of information on the origin and distribution channels of goods or services that have been violated trade secrets;

• Request for injunctions and protective measures.

Obligation of the trade secrets holder is that the holder of the trade secrets shall set measures of prevention and ensure internal trade secret protection because such prevention is one of the conditions that certain information can be considered a trade secret.

VIII. Personnel Administration

A. Payroll Requirements

Within fifteen days at the latest from the day of wage payment, the employer is required to provide the employee with a payroll account from which the manner of calculation of the wage shall be visible. The employer who fails to make the payment of a wage on its maturity date, or who fails to pay it in the full amount, is obligated to provide the employee with a payroll account for the owed amount, by the end of the month in which the wage became due. If it fails to respect

these legal obligations, the employer may be fined up to HRK 100,000 (EUR 13,000).The payroll accounts have a quality of enforceable deeds, on the basis of which the employee may request immediate enforcement of the employer's assets.

B. Required Postings

The information on occupational safety and health regulations, collective agreements and employment rules has to be made available to all employees. If the employer fails to secure the availability of these documents he may be fined up to HRK 30,000 (EUR 4,000).

C. Required Training

The employer shall make it possible for the employee, in accordance with possibilities and needs of the work, to receive schooling, education and training. The employee shall, in accordance with his or her abilities and needs of the work, take part in work-related schooling, education and training. Also, when changes are made or a new method or organisation of work introduced, the employer shall, in accordance with needs and possibilities of the work, make it possible for the employee to receive work-related training.

Generally, the employer is obliged to provide training to the members of the works council in order to provide them with skills required for performing their tasks.

A person employed for the first time in the occupation for which he or she received schooling may be employed by the employer as a trainee who is being trained for independent work in the occupation for which he or she received schooling.

D. Meal and Rest Periods

An employee who works at least six hours a day has, each working day, is entitled to a rest period ("break") lasting at least 30 minutes. A minor working at least four and a half hours a day shall have the right to a rest period (break) in the duration of no less than 30 minutes without interruption every day. This time of the rest shall be included in the working hours. If the special nature of the job does not allow interruption of work for the purpose of taking a rest period, the manner of taking this rest may be regulated by a collective agreement, agreement between the works council and the employer or employment contract.

In the course of each time period of twenty-four hours, an employee shall be entitled to a daily rest of at least twelve consecutive hours. An employee has the right to a weekly rest period lasting at least 24 consecutive hours, to which the daily rest shall be added. A minor shall be entitled to a weekly rest in the continuous duration of no less than 48 hours. The right to a weekly rest shall be exercised Sundays and on the day immediately preceding or following Sundays.

E. Payment upon Discharge or Resignation

If employment is properly terminated by the employer, subject to statutory or contractual notice

periods and dates of notice, upon the request of the employer, the affected employee will no longer be obligated to come to work. In these cases, the employer is obliged to pay the employee his or her regular remuneration, including all special payments, overtime pay, bonuses, *etc.* until the effective termination date as if he or she had actually worked.

F. Personnel Records

The registration and processing of employees' personal data by the employer are subject to limitations under the Employment Act. In general, the usage of personal data is permitted only if so provided for by the Employment Act or another law or if this deems to be necessary for the exercise of rights and obligations arising from employment or related to employment. Upon request, the employer shall correct mistakes (*e.g.* incorrect or invalid data) and delete personal data of employees that were unlawfully processed.

The works council has to give its consent to collecting, processing and using data about an employee and sending such information to third persons. Also, the works council consent is required at appointing a person authorised to carry out control as to whether personal data about employees are collected, processed, used or sent to third persons. Members of the works council are authorized to access personal files only with the consent of the employee, unless otherwise regulated by law (*e.g.* right of inspection).

The employer is obliged to keep records on the working hours, and particularly on:

- Employees and their regular work time,
- Overtime work of the employees;
- The commencement of employment;
- The number of vacation days used;
- Gratuities granted to the employees,
- Number of assigned workers and their work time *etc.*

IX. Privacy

The registration and processing of personal data of the employees by the employer are subject to limitations under the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, GDPR) and to the Act on Implementation of the General Data Protection Regulation (*Zakon o provedbi Opće uredbe o zaštiti podataka, Official Gazette No, 42/18).* The processing of personal data by the employer is permissible only if the employer has a legitimate and important interest in obtaining such data and is not able to meet these requirements by a less intrusive means.

A. Drug and Alcohol Testing

Generally, employees are not obliged to submit to or undergo medical tests.

B. Off-Duty Conduct

Provided that an employee's off-duty conduct including its potential consequences does not interfere with performance of his /her duties and as long as such behaviour is not in violation with legal requirements for performance of the respective job, the off-duty conduct shall have no impact on the employment. The exception may apply in respect to certain professions when the off-duty conduct is closely tight with the profession.

C. Medical Information

At the occasion of concluding the employment contract, the employee must notify the employer of any illness or other circumstances which prevent him or her from, or essentially interferes with his or her fulfilment of the obligations arising from the employment contract, or which endangers the life or health of persons with whom the employee comes into contact during the performance of the employment contract. Also, for the purpose of determination of an employee's health capacities to perform certain jobs, the employer may refer the employee to undergo a medical examination. The costs of such medical examination are to be covered by the employer.

D. Searches

Given the privacy right granted by the Croatian Constitution, the employer is generally not entitled to search employees' property brought on to the company premises.

E. Lie Detector Test

Under employment law, there are no provisions requiring employees or applicants to take a polygraph test. The application of such a test in Croatia is controversial even in criminal procedures.

F. Fingerprints

There are no provisions obliging employees to furnish fingerprints.

G. Social Security Numbers

Under the General Data Protection Regulation, all personnel data, including the individual's personal identification number, are subject to protection. Use of such data is permitted only if so provided for by the Employment Act or another law or if it is necessary for the exercise of rights and obligations arising from employment or related to employment.

H. Surveillance and Monitoring

Personal information about employees may be collected, processed, used and sent to third persons only if so provided for by the Employment Act or another law and in compliance to the

GDPR or if necessary for the exercise of rights and obligations arising from employment or related to employment.

Inaccurate personal information must be corrected without delay. Personal information storage of which no longer has legal or factual basis must be erased or removed in another way. The employer employing more than twenty employees is required to appoint a person who would, in addition to him or her, be authorised to supervise whether the treatment of personal information about employees.

The Croatian Constitution safeguards the secrecy of communication and the Electronic Communications Act (*Zakon o elektroničkim komunikacijama, Official Gazette No. 73/08, 90/11, 133/12, 80/13, 71/14 and 72/17*) provides the platform for protection of secrecy in respect to telecommunications. Generally, it is inadmissible to listen to or record the content of a telephone communication unless authorized by the court or other official authorities.

I. Cannabis (medical and recreational use)

Generally, employees are not obliged to submit to or undergo medical tests for detecting cannabis use.

J. Social Media

Publicly available profiles of individuals on social media platforms are often completely open to access, depending on the settings selected by the account owner. It is not uncommon for employers to use this opportunity to screen potential employees. However, employers should not process potential employees' data solely because their personal profile is publicly available to them, but must take into account whether the profile is related to business or private purposes, as this can be a key factor in proving the legal basis of the processing. The employer may also not collect and process personal information that does not relate to requirements that are relevant to the work. Individuals must be adequately informed of the processing of their information before being involved in the hiring process.

Employers are not authorized to monitor social media profiles of their employees' without a defined legal basis or a legitimate interest in accordance to the GDPR provisions.

K. Weapons/Workplace Violence Policy

Weapons

According to the provisions of the Act on the Acquisition and Possession of Citizens' Weapons (*Zakon o nabavi i posjedovanju oružja građana, Official Gazette 94/18*), if a person proves that his or her personal safety is endangered or could be endangered to such an extent that he or she needs a weapon for his or her safety, the law states that then the person has a justifiable reason to purchase a self-defense weapon. It is also considered a justifiable reason if, due to the nature of the work or the circumstances in which the person is performing the work, there is a need to acquire a weapon, and the activities and measures of the security institutions or other measures could not provide sufficient protection.

The other two reasons are sports and hunting. Sporting weapons may not be used outside civilian firing ranges or other designated areas for shooting. Hunting weapons may be used in accordance with hunting laws and at shooting ranges or other locations designated for shooting exercises.

The application shall be submitted to the Ministry of Internal Affairs, who decide whether to grant the person a self-defense weapon license. The decision is not made without carrying out a procedure and further investigating all the circumstances. Not everyone will get a permit/ weapon license and it shall be issued only on the basis of the persuasiveness and justification of the seeker and the assessment of competent officers of the Ministry of Internal Affairs.

Workplace Violence Policy

Victims of workplace violence enjoy legal protection through the provisions of the Employment Act, the Civil Obligations Act (*Zakon o obveznim odnosima*, *Official Gazette 35/05, 41/08, 125/11, 78/15, 29/18*), the Anti-Discrimination Act and the Gender Equality Act (*Zakon o ravnopravnosti spolova, Official Gazette 82/08, 69/17).*

As of January 1, 2013, the Criminal Code (*Kazneni zakon*, *Official Gazette 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19*) through the provision of Art 133, enacts mobbing in criminal offenses if it causes damage to health has been in force. According to the said Art 133 whoever insults, humiliates, mistreats or otherwise disturbs another in the workplace or in relation to work and by doing so damages his or her health or violates his or her rights shall be punished by imprisonment not exceeding two years. If an employee is violated in the workplace, Article 130 of the Employment Act protects him or her, but this article does not cover all situations of violence and abuse occurring in the workplace

X. Employee Injuries and Workers Compensation

A. Work Related Injuries

Occupational injury insurance paid to Croatian Health Insurance Institute essentially covers all accidents and injuries that occur in connection with the insured job position, as well as certain occupational diseases specifically listed or otherwise proven to result from the employment. The benefits include coverage of medical treatment, including specialized hospitals, medical rehabilitation and wage compensation. If the working capacities of the employee have been permanently reduced, he/she is entitled to professional rehabilitation adapted to his needs, and in certain conditions also to receive disability allowance.

In accordance with the provisions of the Act on Mandatory Health Insurance, the following shall be considered as occupational injury:

- injury caused by direct and short-term mechanical, physical or chemical action, and injury caused by sudden changes in body position, sudden loading of the body or other changes in the physiological state of the organism, if it is causally related to performing activities or activities on the basis of which the injured person is insured in compulsory

health insurance, as well as injuries sustained during mandatory fitness training related to maintaining psychophysical fitness to perform certain tasks, in accordance with specific regulations;

- a disease that arise directly and solely as a result of an accident or *force majeure* during work, or in the performance of an activity or in connection with the performance of that activity on the basis of which the insured person is insured under compulsory health insurance;
- an injury which the insured person receives on a regular journey from the apartment to the place of work and *vice versa*, and on the path taken to enter the work that is insured to him, or to the job on the basis of which he is insured in compulsory health insurance.

The process of identifying and recognizing an injury or illness for an occupational injury is initiated by submitting an application to the regional office of the Croatian Health Insurance Institute competent for the place of residence of the insured person or to the regional office according to the seat of the employer.

The application shall be submitted by the employer and it shall be filed *ex officio* or at the request of the injured or ill worker, or insured person, who is guaranteed rights in the event of an occupational injury. The request for recognition of an occupational injury- injury at work and the determination of entitlements from compulsory health insurance due to an injury at work may also be submitted by the insured person itself or by a family member in the event of the death of the insured person.

The deadline for submitting a report on an occupational injury - injury at work or request is 8 days from the date of occurrence of an occupational injury, and the insured person for whom no report on occupational injury has been filed with the Croatian Institute for Health Insurance within three years from the expiry of the aforementioned deadline loses the right to initiate the determination procedure.

Pursuant to Art 38 of the Employment Act the employer must not dismiss a worker who has suffered an injury at work or has contracted an occupational disease as long as he or she is temporarily unable to work due to medical treatment or recovery. An injury at work or an occupational disease must not have a harmful effect on the promotion of a worker or the exercise of other rights and privileges arising from employment or related to employment. After recovery, employee is entitled to return to previous or other appropriate job, *i.e.* worker who was temporarily unable to work due to an injury or an injury at work, a disease or an occupational disease and who, after treatment or recovery, is considered to be able to work by an authorised person or body, has the right to return to the job he or she previously performed or to other appropriate job, and if the need for such job no longer exists, the employer shall offer him or her to conclude a labour contract for the performance of other appropriate job.

B. Non-Work Related Injuries

An injury at work, within the meaning of the Act on Mandatory Health Insurance, shall not be considered to be an injury or illness which occurred due to:

- concealed, negligent or irresponsible behavior in the workplace, or in the exercise of business, as well as on the regular journey from the apartment to the place of work and *vice versa* (*e.g.,* intentionally causing injury to yourself or others, performing work under the influence of alcohol or narcotic drugs, driving a vehicle under the influence of alcohol or narcotic drugs, *etc.);*
- non-work related activities (*e.g.* work leave not used at the prescribed time, work leave not used to restore the psychophysical and work ability necessary to continue the work process, non-work physical activities, *etc*.);
- deliberately inflicting injury on another person caused by a personal relationship with an insured person that cannot be brought into the context of a work-legal activity;
- attacks of chronic disease;
- congenital or acquired health predispositions that may result in illness.

Nevertheless, the provisions of the Employment Act provide the employee with the right to return to previous or other appropriate job. In addition, aaccording to the Employment Act, temporary absence from work caused by an illness or personal injury is not considered to be just cause for dismissal.

XI. Unemployment Compensation

A. Eligibility

Essentially, all employees covered by pension insurance are also insured against the unemployment. The employers are obligated to pay employment contributions for each worker (1, 7%). The main provisions relating to unemployment are set in Labour Market Act (*Zakon o tržištu rada, Official Gazette No. 118/18*).

According to the provisions of Labour Market Act, the right to financial compensation during unemployment is acquired by an unemployed person who, at the time of termination of employment, has at least 9 months of employment in the last 24 months. Time spent at work is considered to be compulsory insurance time under the rules on pension insurance obtained on the basis of employment in the Republic of Croatia or another member of the European Economic Area or Switzerland, as well as on the performance of self-employed activity with unemployment insurance and the time the worker was temporarily unable to work, *i.e.* on maternity, parental, adoption or guardianship leave after termination of employment or termination of self-employment, if during this time he received remuneration under special regulations and if a contribution for employment was paid.

The law categorically states cases of termination of employment or service, when the unemployed person cannot exercise the right to financial compensation.

Unemployed person may not receive financial compensation if the employment or service has ceased for any of reasons stated below:

- if she or he has terminated employment or service, except in the case of termination of an employment contract caused by the conduct of the employer;
- a written agreement on termination of employment or service;
- a court settlement ordering termination of employment;
- if she or he did not satisfy at the probationary work or did not satisfy during the traineeship or apprenticeship, that is, did not pass the professional exam within the prescribed period, which was determined by a special regulation as a condition for continuation of work;
- regular dismissal as a result of concealed conduct of employees or extraordinary dismissal due to grave breach of duty or official duty or termination of service by force of law for reasons conditioned by the conduct of employees;
- for serving more than three months in prison.

The right to financial compensation shall not be acquired by the unemployed person to whom this right would belong upon termination of employment or service if that employment lasted for less than three months and the previous employment or service ceased in one of the above manners, or the previous independent activity ceased without justified reasons.

B. Procedure

An unemployed person must, within 30 days of termination of employment, termination of sick leave, or maternity, parental, adoption or guardianship leave after termination of employment, apply to the Croatian Employment Service and file an application for unemployment compensation. If the unemployed person misses the 30-day deadline for justified reasons, he or she may file a claim within eight days from the expiry of the justified reason that caused the delay, and at the latest 60 days after the deadline.

XII. Health & Safety

A. Overview

The main provisions regarding health and safety are contained in the Work Protection Act (*Zakon o zaštiti na radu, Official Gazette No. 71/14, 118/14, 154/14, 94/18 and 96/18*). Additional provisions are contained in regulations issued primarily by the Labour and Pension System Ministry, *e.g.* By-Law on Jobs with Special Conditions, By-Law on providing First Aid to Workers, By-Law on Determining General and Special Health Capacity of Workers and the Capacity of Workers in Special Conditions.

B. Regulatory Requirements

Safety and health provisions cover the size, lighting, and ventilation of rooms; fire prevention; first aid; compulsory safety instructions; mandatory equipment and many other highly detailed rules on very specific issues. Employers also are subject to a variety of general obligations concerning the safety and health of their employees, including evaluating all existing risks to individual employees and all special risks in connection with a certain job. Safety and health provisions are enforced by the Work Protection Inspection Authority.

Each employer must appoint one or more safety advisor(s), disposing with sufficient skills concerning safety and health matters. If it disposes with adequate expertise, an employer employing up to 50 employees may perform these duties by himself, otherwise protection of work services may be outsourced. In the case the employer employs more than 250 employees, a special expert service for protection at work shall be established within the employer.

Employees between themselves are authorised to choose the commissioner for the protection at work who protects their interests and ensures that all the legal regulations regarding safety at work are being adequately applied. The commissioner is authorised to make suggestions or demand from the employer certain changes aimed at eliminating sources of risk, inform the work inspection on employer's omissions regarding safety requirements etc.

XIII. Trade Unions-Industrial Relations

A. Overview

The interests of the employees employed with certain employer may be protected through the activity of the works councils, European works council, by membership of the employees in the supervisory board of the employer or a trade union.

Trade unions may be established by at least ten adults, while a higher-level association may be established by at least two trade unions. The employees-members of the trade union must not be placed in a less favorable position compared to other employees on the ground of the trade union membership. Trade unions whose members are employees of particular employer may appoint one or more trade union representatives/commissioners whose main task is representation of the employees before the employer.

The appointment of the trade union representative/commissioner must be communicated to the employer otherwise the employer will not be obliged to collaborate with the trade union. During the trade union commissioner's activity and six months after expiry of the mandate, the employer may not put him/her in a less favorable position compared to other employees or terminate the commissionaire's employment contract without prior obtaining of the trade union's consent.

Employees employed with the employer having at least twenty employees, with the exception of those employed with the state administration bodies, are entitled to decision-making process through the works council. If the employer is organised in several organisational units, employees may establish more works councils, in which case one general works council shall

have a lead. If no works council has been established, the works council is replaced by the trade union commissioner.

B. Right to Organize/Process of Unionization

Pursuant to the provisions of the Employment Act, workers have the right, without any distinction whatsoever, and according to their own free choice, to found and join a trade union, subject to only such requirements which may be prescribed by the articles of association or internal rules of this trade union. Employers have the right, without any distinction whatsoever, and according to their own free choice, to found and join an employers' association, subject to only such requirements which may be prescribed by the articles of association or internal rules of this association. Trade unions and employers associations may be founded without any prior approval.

Workers and employers, respectively, may freely decide on their membership in an association and leaving such association. No one shall be discriminated against on the ground of his or her membership or non-membership in an association or participation or non-participation in its activities.

C. Managing a Unionized Workforce

The operations of an association and trade union may not be prohibited nor may an association be disbanded by virtue of a decision by executive authorities. Associations may create federations or other forms of association in order to pursue their interests together at a higher level ("higher-level association"). Associations and higher-level associations have the right to freely join federations and cooperate with international organisations established for the purpose of the promotion of their common rights and interests. An association may be a party to a collective agreement only if it was established and registered in accordance with the provisions of the Employment Act. An association may represent its members in employment-related disputes with the employer, before a court, an arbitration body or a state body. In pursuance of their goals and tasks as provided under their articles of association or internal rules, associations may establish other legal entities, subject to separate regulations.

Employers and their associations must not exercise control over the establishment and operations of trade unions or their higher-level associations, nor must they finance or in any other way support trade unions or their higher-level association in order to exercise such control.

Unequal treatment on the ground of membership in a trade union or participation in trade union activities is prohibited.

A worker must not be placed in a less favourable position than other workers on the ground of his or her membership in a trade union. It is, in particular, prohibited to:

(i) conclude a labour contract with a worker, under the condition that he or she does not join a trade union or that he or she leaves a trade union,

(ii) terminate a labour contract or place a worker in a less favourable position than other workers

in some other way because of his or her membership in a trade union or participation in trade union activities after working hours, or during working hours subject to the consent of the employer.

The employer must not take into consideration membership in a trade union and participation in trade union activities when rendering a decision whether or not to conclude a labour contract on the assignment of a worker to a particular job or to a particular place of work, on specialist training, promotion, pay, social benefits and termination of a labour contract. An employer, a chief executive or another body, and an employer's representative, must not use coercion in favour of or against any trade union.

Parties to a collective agreement may be, on the employer side, one or more employers, an employers' association, or a higher-level employers' association, and, on the trade union side, a trade union or a higher-level trade union association, which are willing and able to use pressure to protect and promote the interests of their members in the course of negotiations on the conclusion of collective agreements.

A collective agreement regulates the rights and obligations of the parties that have concluded this agreement. It may also contain legal rules governing the conclusion, contents and termination of labour contracts, issues related to workers' councils, social security issues, and other issues arising from or related to employment.

XIV. Immigration/Labour Migration

A. Overview Business/Immigration Policy

Taking into consideration that Croatia is a member state of European Union, the EU's General Immigration Rules apply to Croatia as in most EU countries, 25 of them, as Denmark and Ireland have retained the option of non-participation in some migration and asylum issues in the negotiations. When it comes to Croatia, the Aliens Act (*Zakon o strancima, Official Gazette 130/11, 74/13, 69/17, 46/18, 66/19)* lays down rules regarding immigration and labour migration issues of foreigners and an alien shall comply with laws and regulations, and decisions of the state authorities during his movement and stay in the Republic of Croatia.

Visas shall be issued:

- for passing through the territory of the Republic of Croatia;
- for a stay of up to three months in each six-month period from the date of first entry into the country and;
- for transit through the international transit space of the airport.

However, a foreigner cannot work in Croatia on the basis of a visa. List of foreigners from the so-called third countries requiring a visa are drawn up by the Ministry of Foreign Affairs, and the Visa Regulation lists third countries whose nationals are required to have visas to cross external borders and those whose nationals are exempted from this requirement.

The visas are categorized and in the first category are airline transits which last up to 15 days, with the exception of multiple airline transit visas with a duration of up to six months. The second category is a short-term visa for the purpose of travelling or staying in Croatia, with a validity period of between six months and five years, and under special conditions the foreigner must prove the need or reasonable intention to travel frequently and / or regularly to Croatia (especially for business or family reasons), as well as his honesty and reliability, especially by the lawful use of previously issued visas, his financial situation in the country of origin and his real intention to leave the territory of the Republic of Croatia before the visa he applied for expires.

The Aliens Act regulates conditions for the entry, movement and the work of aliens and the conditions of work, and the rights of posted workers in the Republic of Croatia. The stay of a foreigner is divided into categories of short-term, temporary and permanent residence. A stay of up to three months is considered short-term, and a stay of more than three months is considered temporary, which may be granted for the purpose of family reunion, education, scientific research, work and the like. A national of another country within the European Economic Area, as a property owner in Croatia, may be granted temporary residence for up to a year for purposes other than those expressly provided for by the law, which are generally used by coastal property owners for seasonal stay in Croatia.

An application for temporary residence may be submitted at the consular post*, i.e.* for foreigners who do not need a visa and at the police station at the place of intended stay or work. Conditions for granting a temporary residence permit are for the foreigner to prove the purpose of the temporary stay, have a valid travel document, means of support, health insurance and the like. An application for a foreigner may also be submitted by the employer. The temporary stay may be extended at the competent police station.

Third-country nationals may be granted temporary residence and family reunification if their close relative (usually spouse or parent) has already been granted temporary or permanent residence in the Republic of Croatia. If a temporary stay in the territory of the Republic of Croatia is requested for the purpose of family reunification with a national of an EEA Member State, the Swiss Confederation or a Croatian national, this procedure is further simplified. A person who has been granted a temporary residence permit for family reunification with nationals of the above-mentioned countries or a third-country foreigner for permanent residence in Croatia may work in Croatia without a residence and work permit. After a continuous temporary stay of at least four years for the purpose of family reunification, the foreigner may also apply for a permit for autonomous stay. Conditions of temporary residence are specifically regulated for secondary education such as student exchange, study, professional practice, scientific research and the like.

B. Protocol for business visitors to obtain temporary entry for non-employment purposes

Foreigners coming to Croatia under the visa regime must also have adequate health insurance to

cover the possible costs of emergency medical care or emergency hospital treatment, return to the country of permanent residence for health problems or transportation in the event of death. Foreigners with diplomatic passports, seafarers and other professional groups who already have insurance related to their activity are exempted from this requirement. When entering the visa regime, the parties must first pass the so-called biometric data, that is, photos and fingerprints, and pay a regulatory fee. The application for a visa is submitted on the prescribed form no more than 3 months before the start of the intended trip, and the application is decided within 15 days from the date of application (for justified reasons, the deadline can be extended). Visas are generally issued prior to entering Croatia at diplomatic missions, and may be issued at the border for stays of up to 15 days, for transit purposes or for seafarers also for travel purposes. However, in order to obtain a visa at the border, a foreigner must, with a valid travel document, justify the purpose of his stay in Croatia and prove that he has sufficient means of support during his stay in Croatia and return to the country from which he came, which is why he is advised to obtain a visa before the beginning of the journey. The visa may be extended at the competent police station, with the obligatory opinion of the competent ministry and the Security and Intelligence Agency, in cases of force majeure or humanitarian reasons preventing leaving the Republic of Croatia, as well as serious personal reasons. The Schengen area covers the territories of 26 European countries which have adopted the Schengen Agreement signed in 1985 in Schengen, Luxembourg. The Schengen area largely functions as an area of one state, with traditional controls for those entering and leaving the area, but without internal border controls. The Schengen countries are: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland. Ireland, Croatia, Cyprus, Bulgaria and Romania have not signed the Schengen Treaty. On 1 July 2015, the Republic of Croatia applied for access to the Schengen area.

Foreign nationals holding valid Schengen documents, as well as those holding permanent or multiple entry and residence permits for Bulgaria, Cyprus and Romania, do not need a visa for transit or intended stay in Croatia not exceeding 90 days in each for a period of 180 days. The validity of these documents, which are recognized as equivalent to a Croatian visa, must cover the duration of transit or stay in the territory of Croatia, although a stay in the Republic of Croatia is not counted as a stay in the Schengen area and thus does not reduce the duration of the Schengen visa issued.

The facilitated entry of foreigners is effective until the date of full application of the provisions of the Schengen *acquis* in Croatia, since the Republic of Croatia is not yet in the Schengen area, although it is a member of the European Union. In relation to this situation, it is a general rule that foreigners holding a visa or temporary residence permit in the Republic of Croatia must apply for a separate Schengen visa in order to move freely within the Schengen States.

Conditions for granting a residence permit in the Republic of Croatia differ depending on the category of the foreigner applying for a residence permit. Foreigners are divided into the following categories: (i) nationals of the Member States of the European Economic Area (the

EEA) and the Swiss Confederation and their families; (ii) third-country nationals authorized to reside in the territory of another EEA Member State and their family members; (iii) highly qualified foreign nationals; and (iv) nationals of other (third) countries.

Foreigners who will work up to 90, up to 60 or up to 30 days a year are obliged to obtain from the competent police department or police station a certificate of registration of work according to the place of work before the start of work. On the basis of a work registration certificate issued, a foreigner for the same employer or recipient of the service may work in the entire territory of the Republic of Croatia.

As a rule, a work application certificate is requested by procurators, key staff or members of a company supervisory board who perform business for a company in the Republic of Croatia up to 90 days a year, but are not employed.

C. Visa options for the temporary employment of professional/management foreign nationals

The annual quotas are determined by the Government of the Republic of Croatia for individual activities, the most represented in tourism and catering. Permits are issued until the quotas set for each calendar year have been exhausted.

As annual quotas for foreigners' employment permits are exhausted relatively quickly, foreigners are more likely to seek a residence and work permit beyond the annual quota. Outside the annual quota, a residence and work permit may be issued, for example, foreigners who perform key business in companies, branches and representative offices, if

- the value of the share capital of a company, that is, the assets of a limited partnership or a public company exceeds HRK 100,000 (approximately EUR 13,000);
- at least 3 Croatian nationals are employed in jobs other than those of a procurator, board member or supervisory board;
- if his gross salary is at least the amount of the average gross paid salary in the Republic of Croatia in the last year according to officially published data of the competent authority for statistics;

In case if several foreigners carry out key jobs for the same employer, a residence and work permit may be issued if:

- at least 5 Croatian nationals are employed for each employed foreigner in jobs other than those of a procurator, member of the Management Board or Supervisory Board,
- the value of the share capital of a company, that is, the assets of a limited partnership or a public company exceeds HRK 100,000.00 (approximately EUR 13,000.00)
- their gross salary amounts to at least the average gross paid salary in the Republic of Croatia in the last year according to officially published data of the competent statistics authority.

A residence and work permit may be issued to a foreigner who is self-employed in his own company or in a company, in which he has a holding greater than 51% or his own craft, if has

invested at least HRK 200,000 (approximately EUR 26,000 in establishing a company or trade if:

- at least 3 Croatian nationals are employed,
- his gross salary is at least the amount of the average gross paid salary in the Republic of Croatia in the previous year,
- company or craft does not operate at a loss,
- encloses proof of payment of tax liabilities and contributions in the Republic of Croatia.

A residence and work permit may be issued outside the annual quota for foreigners, who have been transferred within the internal transfer of staff within companies and other necessary persons, worker performing services on behalf of or for a foreign employer who is not established in the EEA Member State on the basis of a contract with a company or craft in the Republic of Croatia in the field of high technology, teachers and teachers who teach in schools in the language and script of national minorities, professional athletes or sports professionals, artists working in cultural institutions in the Republic of Croatia and others.

For each of these cases, the parties must submit a number of documents, such as proof of educational qualification, justification for employment, proof of being a key person in a company, proof of incorporation or self-employment, and more.

The residence and work permit is issued until the end of the work period, for a maximum of one year, while exceptionally this period can be extended to two years. Seasons can work and stay in Croatia for a maximum of six months, after which at least so many must stay outside Croatia before obtaining a new "seasonal" permit.

D. Visa options for the temporary employment of non-professional employees

Temporary residence for work purposes is granted as a residence and work permit, issued in accordance with the annual quota or, in special cases, out of quota, and as a certificate of registration of work.

With regard to the residence and work permit it should be pointed out that a foreigner will be granted a temporary residence if he or she:

- prove the purpose of the temporary stay,
- has a valid travel document,
- has means of subsistence,
- has health insurance;
- no ban on entry and stay in the Republic of Croatia,
- does not pose a threat to public policy, national security or public health.

In addition to the request for the first temporary stay, the alien-foreigner is obliged to enclose a certificate of impunity for the state of which he is a national or permanent resident, not older than 6 months. Foreigners who have been granted permanent residence, asylum or temporary protection, and their family members who have been granted temporary residence for family

reunification purposes, as well as aliens who have autonomous residence may work without a work permit. Students may also work, through student or student services and similar authorized intermediaries, without having an employment relationship, and foreigners residing in Croatia for the purpose of scientific research.

E. Visa options for foreign entrepreneurs and/or business investors

Entrepreneurial and market freedom, as well as private ownership, are the cornerstones of the economics. The Republic of Croatia, which by the Constitution guarantees all entrepreneurs an equal legal position in the market, whereby the rights acquired by investing cannot be diminished by laws or other legal acts. In terms of investment, foreign entrepreneurs are equated with domestic ones, with the guarantee of free making profits and invested capital from the country. Croatian legislation does not distinguish foreign from domestic entrepreneurs and investors, already prefers to split into resident and non-resident.

Residents are legal entities established in Croatia; subsidiaries of foreign companies registered in the Croatian Court Register; natural persons domiciled (personal or business) in Croatia, natural persons with a valid residence permit and diplomatic and consular missions of Republic of Croatia financed from the budget abroad. All other persons are considered non-residents. Foreign investors in Croatia have the security of investment that is common in all developed countries.

According to Art 73 of the Aliens Act the performance of the preliminary actions for the establishment and registration of a company or trade is not regarded as work, therefore, a foreigner is not obliged for submission of an application for a stay and work permit or a work registration certificate.

F. Permanent residency based on employment

The permanent residence of foreigners in Croatia is granted if they have a continuous five year of legal residence, either granted temporary asylum or subsidiary protection. During these five years of residence, you are allowed to leave Croatia for up to ten months or once for up to six months. At the time of deciding on a permanent residence, the alien must have an approved temporary residence, and within five years seasonal work, residence on the basis of a work permit are not counted, while, for example, only half of the time spent studying in Croatia is counted. For a permanent residence, the alien must meet other conditions; have means of support, health insurance, and knowledge of the Croatian language, Latin script, and Croatian culture and social order.

Language, script and culture proficiency exams can be conducted by higher education institutions, secondary and adult education institutions with special approval from the line ministry. The exam does not have to be taken by preschool children, foreigners who have completed primary, secondary or higher education in Croatia, and persons over 65, if they are not employed. The exam does not have to be taken if the alien independently completes a special questionnaire in the procedure for granting permanent residence, but in which he also shows the necessary knowledge.

Persons with permanent residence have almost all the rights as Croatian citizens, including the right to work and self-employment, vocational training, education and student scholarships, social and health care, pension rights, maternity benefits, child allowance, tax benefits, freedom of association and more. However, foreigners in permanent residence must beware, as this status can be revoked in cases where they get an entry ban, move out or stay permanently outside Croatia for more than a year and the like.

In exceptional cases, permanent residence is also granted to refugees who spend at least three years in Croatia, beneficiaries of the return and reconstruction program, to a child whose parents have a permanent residence.

G. Citizenship for foreign nationals

Persons who do not have Croatian citizenship (foreigners) can apply for Croatian citizenship and become a Croatian citizen if they fulfill the conditions prescribed by the Law on Croatian Citizenship. Croatian citizenship can be acquired by birth on the following legal grounds:

(i) on the basis of stay in Croatia, (ii) by birth in Croatia, (iii) on the basis of a marriage with a Croatian citizen, (iii) on the basis of emigration from Croatia, by a foreigner or his ancestors, (iv) on the basis of the existence of interest for the Republic of Croatia (An alien whose admission into Croatian citizenship would be of interest to the Republic of Croatia submits the opinion of the competent ministry on the existence of interest for admission to Croatian citizenship; *e.g.* investor in a project of strategic interest for the Republic of Croatia), (v) on the basis of belonging to the Croatian people, (vi) on re-admission to Croatian citizenship.

An application for the acquisition of Croatian citizenship is submitted in person at the police department or station, or the diplomatic mission / consular post of Croatia abroad (if the applicant is represented by a proxy, a special power of attorney is expressly authorized to represent the subject in the acquisition of Croatian citizenship). Exceptionally, in the case of a person with a disability, the request may be made by his or her legal representative or authorized representative.

The prescribed application form for the acquisition of Croatian citizenship is accompanied by: (i) a CV; (ii) birth certificate; (iii) citizenship certificate; (iv) a certificate of impunity of the competent foreign authority of the country of which the applicants are nationals and of the country in which they are resident, (v) in an original or duly certified copy with translation into Croatian, not older than six months; (vi) valid identification document in certified copy; (vii) and if the application is also made for minor children and birth certificates, (viii) a citizenship certificate and consent of a child over 14 years of age. Other relevant documents should be attached to the various bases of acquiring Croatian citizenship.

H. Compliance concerns for employers of foreign nationals

As aforementioned, non-EU worker (third country worker, foreigner) may work for a Croatian employer under one of the following conditions: (i) residence and work permits (within or outside the annual quota); (ii) certificates of registration of work (up to 90, 60 and 30 days in one

calendar year); or (iii) without a residence and work certificate or a certificate of registration of work (in special cases enumerated in the Aliens Act). A third-country national may only work in the Republic of Croatia in those jobs for which he has been issued a residence and work permit or a certificate of registration. In addition, he can work only with the employer with whom he has started an employment relationship. An employer in Croatia can only hire a foreigner (a third-country national) if he has obtained a residence and work permit or a certificate of employment. In addition, he may be employed only in those jobs for which a work permit or a residence permit has been issued.

If the employer of the natural person employs a foreign national of a third country who works in jobs for which he has not been issued a residence permit and a work permit or certificate of registration of work, he will be fined from HRK 10,000 to HRK 30,000 for every third-country national he illegally employs . When the employer is a legal entity, it will be fined between HRK 70,000 and HRK 150,000.

I. Regional, Federal, or state/providence specific immigration or compliance issues

There are no differences in legislation between regions ("županije") in Croatia. All of the above stated regarding immigration and compliance issues fall under the scope of the unique regulation applicable to the entire territory of the Republic of Croatia.

XV. Additional Information

For more detailed information about labour and employment law in Croatia, please contact Vidan Law Office.

XVI. Contact Information

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