



THE AMERICAN CHAMBER OF COMMERCE IN THE SLOVAK REPUBLIC

AmCham Points Out the Macroeconomic Consequences of the Labor Code Proposal

Building on the broad portfolio of our member companies, the AmCham Labor Law Task Force, formed in September 2006, has been actively following the development of the Labor Code revision in order to contribute with our comments to the Labor Code Revision process, providing valuable input and experience of the employers and experts intensively working with the concerned legislation. Furthermore, our Labor Code Task Force representatives have been meeting with the representatives of relevant Ministries and other Business Associations in Slovakia, as well as with external experts on the topic in order to contribute to a constructive dialogue.

In February 2007, the American Chamber of Commerce participated in the **interdepartmental review, submitting 38 comments to the proposed Labor Code Amendment**, as a part of the standard public hearing procedure.

We consider the following as the most crucial:

- 1. Overtime limitation**
- 2. Definition of dependent work - contractors**
- 3. Principle of the same wage for the same work**
- 4. Restriction of linking of labor contracts**
- 5. Competencies of trade union representatives**
- 6. Important personnel restraints at work**
- 7. Termination of employment relations**
- 8. Position of temporary workers**

The Labor Code Revision will significantly influence the flexibility of the labor market and the business environment in Slovakia, as well as the Slovak economy itself. In this regard, we would like to draw attention to the fact that despite intensive public discussion we have witnessed in the last months, no concrete calculations of the macroeconomic impacts of the legislation piece have been submitted.

Slovakia is planning to enter the Eurozone on January 1, 2009. In adopting the single European currency, the importance of responsible fiscal policy as well as the flexibility of the economy is significantly increasing in order to balance the possibility of influencing the economy's development through its monetary instruments - namely, the increase of labor and product market flexibility as well as competition increases in the energy and telecommunication sectors, broader research and development support and improving results of the education process.

Based on our consultations with reputable experts and economists, we would like to draw attention to some of the macroeconomic consequences of the proposed Labor Code Amendment that, based on the analysis, will have a negative impact on the economy, since we believe that they would not be in accordance with declared goals of long-term, sustainable economic growth and life standard increase for Slovakia's citizens.



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Macroeconomic impact of selected articles:

- **Overtime limitation¹**

Proposals of the overtime limitations are based on the strategies of dividing work positions (in Germany) or strategy of working time shortening (in France for 35 hours a week). Both strategies should result in new job creation.

However, overtime represents a specific form of the timed work performance related to specific sectors, not to the economy as a whole. There are sectors in Slovakia where the cumulative annual amount of overtime is 400 hours (health care sector) and even 480 hours (transportation). Furthermore, there are sectors where it would not be correct to speak about the annual sum of overtime hours – for example, in the construction sector, the total amount for seasonal employment reaches 200 to 300 working hours. However, out of season, there is typically no overtime. Therefore, we are talking about a specific, diverse phenomenon of the Slovak economy concerning the energy, transport, construction, health care and other service-related sectors. Overtime limitation in the education sector would face a shortage of sufficiently competent workers and would lead to a quality decrease of provided services. As for transportation, the proposed limitation would cause a need to hire new employees or to prolong the work delivery time. Considering transport fuel prices, introduction of new emission quotas in the automotive sector and obligatory monitoring systems, the majority of small enterprises would face an insoluble situation. As for the energy sector, where nonstop operations are a prerequisite, overtime limitation would require hiring of new workers. Significant investments in discovery of new energy, new community regulations of the European Union, as well as other pre-conditions, will lead to cost increases. Adding the working time limitation would result in unacceptable cost increases in the energy sector. In the case of other sectors (health care), overtime limitation would escalate problems, culminating in negative consequences.

Overtime limitation in Slovakia will most probably not lead to expected job creation, but a decrease in the quality of provided services. Moreover, such restrictions could increase the speculative behavior of some of employers in order to avoid the legal requirement causing discrepancies between reported and performed working time, thus supporting the shadow economy.

- **Definition of dependant work - contractors²**

Proposed dependant work creates a barrier for increasing trend of transformation the employment relations to the commercial ones (employee – contractor). 120 thousand people employed in the Slovak economy work on contractual basis, out of those approximately 40 thousand works for foreign enterprises. Their total share on the total amount of core employees is significant especially in the automotive industry (more than 20 thousand), in construction, transportation, services and consulting, commercial forestry, agriculture and tourism. In regards to the foreign investments, large corporations have been replaced by the medium enterprises (out of 140 investment projects in progress 120 are run by the small and medium enterprises), which come to Slovakia with aim to enhance their global competitiveness by production cost optimisation of 20 to 30%. The small and medium enterprises are the ones able to decrease the labor costs up 25% by contractor agreements, which is often a key decision factor of their business existence.

Limitation of contractor agreements would decrease existing working opportunities for the traders (for example in the construction sector, it might causes lost of 90 000 jobs). Furthermore, limitation of contractors would have impact on key industries responsible for the current growth of the Slovak economy

¹ §97, , §121 ods. 2)

² §39 ods. 2



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(automotive industry, construction, specialized services). Approximated GDP lost only for the construction and automotive sector reaches several million SKK annually.

- **Restriction of linking the labor contracts³**

The basis for human resources optimalization is optimalization of the overall HR management. Due to technological characteristics, seasonality and cyclical development of production processes, the linking of labor contracts is a logical solution.

Restriction of the labor contracts will require employment of additional workers (which increases the costs of training the employee) or using other types of employment contracts (temporary employment through agencies). As for Slovakia, these measures will most impact the automotive and high-tech industries, construction and certain service-related businesses. Considering the impact on economic growth, the measures will have significant consequences on key industries and especially foreign investors. Proposed restrictions of linking the labor contract in accordance with other regulations could lead to impact cumulation, which might be counterproductive in regards to the investment stimuli in the long run. It might influence the decision-making process of potential investors or lead to the request for reassessment of the investment stimuli from the side of foreign investors already established in Slovakia. Generally, we could count on additional compensation expenses in a total amount of approximately SKK 2-3 billion annually.

Based on the results of the **assessment survey on the expected impact of selected Labor Code regulations on member companies of the American Chamber of Commerce in SR**, we have found that companies expect an increase in their costs or serious complications in regards to several of the proposed articles - for example:

- **Definition of dependent work – contractors⁴**

In the opinion of AmCham membership, the share of contractors in companies that are using this contractual basis is relatively high. It concerns especially small and medium enterprises operating in the service sector. The survey reveals that 93 percent of contractors in the AmCham member companies will lose their contracts. The companies do not dare to predict whether the new full-time employment contract would be consequently offered to them. AmCham member companies await a 12 percent cost increase related to the duty of using only employment contracts when regulating labor relations with their employees.

- **Principle of the same wage for the same work⁵**

Proposed article (§ 119a) will cause problems in employee remuneration at the same working positions in different regions, both in case of administrative as well as manual work (for example, a cashier in Bratislava earns more than a cashier at the same chain in Humenné). Based on the survey conducted among AmCham member companies, we could state that businesses expect cost increases of 5% as the result of the mentioned article.

³ §48

⁴ § 1 ods. 1 a, § 7 ods. 4

⁵ §82 c), §119



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- **Important personnel restraints at work⁶**

A change in the extension of paid sick-leave in case of medical appointments from the current 7 to 10 and eventually 14 (second alternative) days annually business representatives find inadequately high, considering the amount of paid leave fully reimbursed by employers. In regards to this article, companies do not expect a significant increase in direct costs. However, production companies expect that they will need to increase the number their employees. This will negatively impact their labor costs.

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Though the Labor Code Proposal introduces some positive changes for employers and employees, many of them will decrease the quality of the labor-law relations and the labor market, increase costs and restrain the flexibility of the labor market. We hope that the contribution of the American Chamber of Commerce in SR will further enrich current discussion on the proposed Labor Code Revision. In this regard, the American Chamber of Commerce in SR highly appreciates a positive response from the Ministry of Labor, Social Affairs and Family towards our effort for constructive dialogue and initiated recent arbitrary procedure in regards to the concrete comments of the AmCham to the Labor Code Revision. We believe that this kind of open and constructive discussion will further continue and that we together with other relevant actors will manage to harmonize the formulation of this important legislation in a way that, in the final approved text, regarding specific characteristics of our economy and social system, will support the growth of employment and at the same time preserve the basic conditions of Slovakia's competitiveness.

⁶ §141