

WA18: General Legislation

5.5 Demonstrate knowledge of law to generate solutions to more abstract issues

LO162: Demonstrate a comprehensive knowledge of Employment Law in a broad context to assist the company, or organisation, to predict situations and develop solutions to complex problems.

LO163: Demonstrate comprehensive knowledge of Health & Safety and Law in a broad context to assist the company or organisation, to predict situations and to develop solutions to more abstract problems.



Module Details



Work Area Code:	18
Work area title:	General Legislation
Unit Code:	5.5
Unit Title:	Demonstrate knowledge of law to generate solutions to more abstract issues
Learning Outcomes Ids:	LO162, LO163
Learning Outcomes titles:	<ul style="list-style-type: none">- Demonstrate a comprehensive knowledge of Employment Law in a broad context to assist the company, or organisation, to predict situations and develop solutions to complex problems. (LO162)- Demonstrate comprehensive knowledge of Health & Safety and Law in a broad context to assist the company or organisation, to predict situations and to develop solutions to more abstract problems. (LO163)
Recommended Duration:	5 hours
Trainer:	



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- The Labour Code
- Act on Illegal Employment
- Occupational safety and health protection act
- Act on International Cooperation when posting employees



- Act on travel allowances
- The law on income tax
- The law on social insurance
- The law on health insurance
- Minimum wage act



- General provisions
 - Employer
 - Employee
 - Legal actions
 - Contract
- Transfer of rights and obligations resulting from labour-law relations



Employment relationship

- Probation period
- Employment contract
- Fixed term employment relationship
- Employment relationship with reduced working time
- Home work, telework
- Working conditions
- Business trip



- Termination of employment
 - Agreement on termination
 - Notice
 - Immediate termination
 - Termination of a fixed term employment relationship
- Collective redundancies
- Severance allowance , Discharge benefit ,Claims from invalid termination of employment relationship



- Working time and rest periods
 - Types of working time
 - Breaks and rest
 - Overtime work, Night work, Paid holiday
- Wages and average earning
 - Minimum wage claims
 - Wage for overtime, public holiday, night work, difficult conditions





- Payment of wage
- Obstacles to work and labour protection
- Employer social policy
- Compensation for damages



Act on Illegal Employment covers



- Illegal work and illegal employment
- Appoints control body - national labour inspectorate
- Employer and employee responsibilities and sanctions



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Act on International cooperation for posting employees



- This Act regulates the cross-border cooperation of the National Labour Inspectorate (**NLI**) with the relevant authorities in the EU states as regards the control for compliance with regulations relating to posting employees to provide services and certain responsibilities of the posting employer and the beneficiary of services.



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Act on International cooperation for posting employees covers



- The act introduces **key obligations for entrepreneurs using and receiving services in Slovakia through posted foreign individuals/employees** and amends/supplements other laws, such as the Labour Code, the Act on Illegal work and Illegal employment.



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Act on International cooperation for posting employees covers



- The NLI will investigate whether the conditions/nature of the posting is met, in particular:
 - whether the foreign employer performs **other core activities** in addition to internal management or administrative work, i.e. activities registered in the commercial register;
 - whether the posted worker is only performing work in Slovakia temporarily and whether he/she normally works in another member state.



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Act on travel allowances covers



- According to the Act on Travel Allowances, an employee is entitled to receive travel and other allowances in relation to business trips from his employer.
- The Act also specifies the employer's and employees' rights and duties in relation to business trips



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The current employment-related tax is income tax, which is levied at two different rates of 19 per cent for an annual income amount up to €35,022.31 and 25 per cent for any income amount exceeding this threshold.

The employer also has to participate in other obligatory payments such as social insurance and health insurance payments. The amount of those payments is as follows:



Act on social insurance and act on health insurance



Payment	Employee	Employer	Maximum assessment base
Sickness insurance	1.4 per cent	1.4 per cent	€6,181.00
Disability insurance	3 per cent	3 per cent	€6,181.00
Retirement insurance	4 per cent	14 per cent	€6,181.00
Unemployment insurance	1 per cent	1 per cent	€6,181.00
Work injury insurance	-	0.8 per cent	no limit
Solidarity reserve fund (part of the retirement insurance)	-	4.75 per cent	€6,181.00
Guarantee fund	--	0.25 per cent	€6,181.00
Health insurance	4 per cent	10 per cent	no limit



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- **Minimum wage** is the lowest amount of pay an employer is required to pay an hourly worker.
- Minimum wage **directly affects** the ammount of social and health insurance payments by employers, thus increases labour costs, an also affects individual entrepreneurs costs by lowering their income.



Occupational safety and health protection act covers



- **General principles of prevention and the basic conditions for the purposes of ensuring occupational safety and health protection, and for avoiding risks and factors causing occupational accidents, occupational diseases and other damage to health from work.**
- Measures to ensure OSaHP in the pre-production stage



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Occupational safety and health protection act covers



- General principles of prevention
- Notification and information of employees
- Employer's obligations in cases of immediate and serious hazard to life or health



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Occupational safety and health protection act covers



- Controlling activities
- Safety of constructions, working premises, installations and working procedures
- Occupational and industrial accident and disease
- The commission for safety and health protection at work



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Occupational safety and health protection act covers



- Preventive and protective services
- Safety technical service, safety technician, authorised safety engineer
- Occupational health service
- Education and training
- Technical inspection



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- **Think of the situations where changes in employment legislation and health and safety legislation may affect the operations of the organization.**
- **Try being as specific as possible – linking certain act change to specific impact on organization**

Group discussion



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Examples of situations when company has to think of the employment legislation

- Setting up a new company
- Hiring employees
- Organizational changes and transfers



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Examples of situation when company has to think of the employment legislation

- Pregnancy and maternity leave
- Entering foreign markets
- Employing foreigners
- Anti-discrimination



Methodological tool

- Employment legislation application
 - EUPA_LO_162_M_001



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Examples of situation when company has to think of the Health and Safety regulations

- Violation of employee or employer rights
- Violation of safety of the premises, work equipment and working methods



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Examples of situation when company has to think of the Health and Safety regulations

- Prevention (equipment and protective clothing)
- Health and safety training
- Dealing with industrial accidents or diseases



Methodological tool

Health and safety regulations application

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Legal arguments fall into five major categories:

- 1) text,
- 2) intent,
- 3) precedent,
- 4) tradition,
- 5) policy analysis.



Each type of legal argument arises from a different **source** of law; is based on a different set of **evidence**; and serves different **values**.





Text arises from text of enacted law (constitutions, statutes, regulations, etc.);

Textual arguments are arguments that center around using methodologies for interpreting the language of these texts.



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Methods of textual interpretation:

The plain meaning rule relies on the definitions of particular words and phrases in the text to interpret the text.

Canons of construction are rules of interpretation that draw inferences about the meaning of a rule from its textual or legal context.

Intratextual arguments use one portion of the legal text (document) to interpret another portion. To determine the meaning of a provision, intratextual arguments either look to the placement of a provision of a law within the organization of the document; or look to the use of similar/dissimilar terms in other parts of the document.



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Intent is based on the intent of the people who wrote the text – for example, the original intent of the Framers of the Constitution or the intent of legislators who drafted a statute.

Evidence of intent may be drawn from:

1. text of the law itself,
2. previous versions of the text,
3. drafting history of the text,
4. official comments to the text, or
5. contemporary commentary.



Precedent arises from the holdings or opinions of courts setting forth what the law is.

Making an argument based on judicial precedent includes analogizing or distinguishing your client's case from the facts of precedent cases, and, in the case of arguing for a particular rule to be adopted, also includes examining what rules past courts have adopted on the issue, and why, and arguing which courts are correct and which are wrong based on how they interpreted the constitution, a statute, or important binding precedent such as a Supreme Court case.



Tradition arises from the traditional ways members of the community have conducted themselves. It is looked to in various areas of law, such as the law of commercial transactions, where courts consult industry customs and traditions. Similarly, social traditions play a role in the allocation of liability for tort.



Policy analysis determines the meaning of the law based on the values the law is intended to serve. Policy arguments are different from the other four types because they are consequentialist in nature; that is, unlike the other four types of arguments, which look to the past in that they are appeals to authority, policy arguments look to the future by arguing that a certain interpretation of the law will bring about a certain state of affairs – and that this state is either desirable or unacceptable in the eyes of the law.



How to write legal arguments – step by step



"Tell them what you're going to tell them, tell them, and then tell them what you've told them.,, 😊

1. a statement of your conclusion
2. a statement of the rule that supports the conclusion
3. proof of the rule through citation to authority, through explanations of how the authority stands for the rule, through analyses of policy, and through counter-analyses



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How to write legal arguments – step by step



4. application of the rule's elements to the facts with the aid of supporting authority, policy considerations, and counter-analyses, thus completing proof of the conclusion

5. restate the original conclusion once more at the end.



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- **Review Question 1**
 - List legislations related to employment and health and safety
- **Review Question 2**
 - Summarize the aspects of employment law covered in the Labour code
- **Review Question 3**
 - List the categories of legal arguments



Employment and health and safety regulations are covered by:

- The Labour Code
- Act on Illegal Employment
- Occupational safety and health protection act
- Act on International Cooperation when posting employees
- Act on travel allowances
- The law on income tax
- The law on social insurance
- The law on health insurance
- Minimum wage act





Well Done!

You have completed this unit



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