

HR Space

Employment Law – Poland

Podcast Series

We are launching this series of employment podcasts that will help you navigate the newest legislative developments in Poland, ensure compliance and employment risk mitigation.

Available Now

Click [here](#) and listen



Helping You Navigate Challenges, Remain Compliant, and Mitigate Exposure to Risks in Poland

Stay on Top of Polish Employment Law Changes

Workplace dynamic has always spearheaded legislative change. Since the global pandemic broke out, we have been witnessing tremendous economic and social changes, which may now make their way to the Polish Labour Code.

HR Space Podcast Series

With our HR Space podcast series, our labour and employment lawyers in Warsaw aim to answer your key questions on employment law developments in Poland. We explore the challenges HR directors are facing in the current climate, helping businesses to navigate legislative developments in Poland so that they can ensure compliance and mitigate employment risks.

Our series consists of 10 episodes focusing on:

Remote work

Transparency and predictability

Work-life balance

Follow our series, with new episodes coming out weekly.

Featuring



Małgorzata Grzelak
Partner,
Labor and Employment
Warsaw, Poland



Zuzanna Rosner-Laskorzyńska
Senior Associate,
Labor and Employment
Warsaw, Poland

Stay on Top of Polish Employment Law Changes

Episode 2: Remote Work Costs

Q&A

- Do I have to reimburse the costs of remote work?
- Can I pay my employees a fixed monthly amount?
- Do I also have to reimburse the costs of employee-requested remote work or only of employer-mandated remote work?

Costs Reimbursement

To date, the Labour Code was silent on remote work costs reimbursement. At the same time, it was one of the major concerns. In practice, some employers decided to reimburse such costs. Others refused to do it, arguing that remote work is an employee benefit. Although they may spend more on electricity, they make up for it by saving on commuting (e.g. petrol, parking, etc.).

The new remote work draft law now explicitly provides for remote work costs reimbursement. In particular, the employer will have to cover the costs of electricity and telecommunication services necessary for the employee to work remotely. If the employer does not ensure installation, service, and maintenance of the necessary remote work toll (including the technical equipment, it will be additionally obliged to cover the costs of the above and additionally the costs of operation of these work tools. Reimbursement of other costs directly related to remote work will not be compulsory, unless otherwise regulated in the remote work bylaws (e.g. agreement with trade union(s), internal policy, employer's instruction) or in an individual agreement with an employee.

Lump Sum and Fixed Equivalent

Instead of reimbursing the costs based on invoices, bills and receipts (which may be troublesome and time-consuming in practice), a lump-sum option will be available. Such lump-sum reimbursement will have to reflect, among others, the anticipated remote work costs incurred by the employee, the electricity use norms and the telecommunications services costs. Another type of entitlement – a fixed equivalent – will be available for remote workers using materials and tools (including technical equipment) not issued by the employer.

Taxes and Social Security

Remote work costs reimbursement, lump sums and/or fixed equivalents will not be treated as the employee's income, therefore they will not be taxable nor subject to social security contributions.

Minimum and Maximum Amounts?

A special parliamentary commission has recently discussed whether the new law should specify any statutory maximum amount of the above payments to avoid public dues abuses (e.g. when an employee is paid a minimum wage subject to tax advances and social security contributions, and a high lump sum exempt from these dues). The Labour Ministry has argued that this is not an efficient solution, as remote work costs will likely continue to grow, so the statutory maximum amount would have to be constantly adjusted. Therefore, it should rather be up to the tax authorities to inspect whether the lump sum or the fixed equivalent are not excessive. Trade unions' representatives have claimed, in turn, that the law should also specify the minimum statutory amount, since employers will otherwise force too-low amounts, not accounting for the rising electricity and heating costs.

Uncertainties Abound

Although these long-awaited statutory provisions on remote work costs and their reimbursement will soon come into effect, many doubts and questions still remain. For example, it is unclear how to calculate the lump sum exactly (even though the new provisions provide some guidelines). Some employers already pay it in various amounts, depending on the internal practices and guidelines (not only local, but also global). The market practice in this respect has yet to fully crystallise. There are also other questions, e.g. what happens when the remote work costs (e.g. electricity and internet) exceed the lump sum paid by the employer? Can the employees ask to be reimbursed for the difference between the lump sum and the actually incurred costs? How does one properly determine the lump sum based on the "use norms"; if, amid the current energy crisis, these norms will, in all likelihood, change rapidly? Can the employee effectively waive their right to a lump sum or a fixed equivalent? Is it possible to have one fixed equivalent and one lump-sum amount for the entire company, or will it rather be necessary to determine them for each employee individually?

