

# HUMAN RESOURCES AND THEIR REMUNERATION: MANAGERIAL AND LEGAL BACKGROUND

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## **Abstract**

This paper examines the current state and issues in the field of the employee remuneration, which is a key issue that management must address in all the companies. The topic is primarily anchored in the field of human resources management and labor law, which leads to multidisciplinary research. Not only in legal, but especially in managerial practice, many unanswered questions arise that are directly related to the remuneration of employees. The goal of the article is to contribute to correct understanding of obligations and underlying principles of remuneration of employees from the side of the employer in order to secure stabilization of human resources of the enterprise. The setting of this goal is based directly on existing needs and on evolving practical problems in business practice. The correct understanding and application of the legal concept of salary regulated in the Labor Code fundamental impact on effective functioning of the company and human resources management. Due to the nature of the researched topic, we applied primarily qualitative methods of research. Scientific and doctrinal interpretation of legal regulations in connection with the knowledge from academic literature and judicial decisions have enabled us to find answers to researched questions and application problems of business practice.

**Key words:** employee, Labor code, remuneration

**JEL Code:** J53, K31, M12

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## **Introduction**

Each entrepreneur seeks to achieve a competitive advantage in the market and try to succeed in a strong competitive environment. In business, one of the most important prerequisites for success are human resources and their motivation to work and their efficient use. The motivation and motivating an individual to higher performance has already been given particular attention in the past.

Managers are still looking for new ways and alternatives to motivate employees to achieve not only the success of the business but also the actual satisfaction of their needs and

interests. The success in motivating the employees determines the success of the enterprise and must therefore be given constant attention. The role of managers is to set targets, to manage and control, as well as to detect and examine what motivates employees to achieve better performance that contributes to the achievement of the enterprise's stated objectives. Managers try to identify these needs, find out how important they are and seek to satisfy them. The most frequently occurring motivation incentives in the workplace include salary, career development, further learning opportunities, job security, self-fulfillment, favourable human relations and working environment conditions, leadership style and communication. However, wages are an essential tool for meeting the economic needs of employees, thus the amount of wage, as a rule, is one of the most effective drivers of human resources in the company. However, in business practice, a misunderstanding and incorrect application of this legal concept is quite frequent.

The issue of wages is faced in general by lack of interest which, in our view, may have the consequence of lack of interest on the side of economists and, in particular, of managers to further explore this issue, despite its fundamental importance in terms of remuneration. The examination of wages is addressed by a number of experts, not only from the economic and management field, but in particular from the field of labour law. However, this issue is a legal issue and it is the legislation of each state that determines the rules and methods for determining wages. For this reason, this scientific contribution also seeks to contribute to a comprehensive view of remuneration in the context of the current Slovak legislation.

## **1 Theoretical background**

The remuneration of employees is one of the oldest, most developed and mature activities in human resources management. It represents means of stabilization, recruitment and motivation of human resource as a key area of human resources management (Novackova, 2012). According to Mura & Svec (2018) the term 'remuneration' currently means not only the salary or other cash remuneration but also other forms of indirect compensation of employees for the work done by them. It also includes formal recognition, promotion, employment benefits provided by the employer to employees, not depending on their work, but derived from working relations in the organization. The remuneration shall also include circumstances, cases and conditions which may not be granted for all staff members, such as equipment and office equipment and facilities provided by the employer. Remuneration is to be committed to individuals, to the organisation's objectives and to values that support the

performance of the organization. Wages must be seen by the organisation as a long-term investment. Not all of the organisations understand the remuneration as an investment, but only as a mere expense (Štefko, 2019).

As Kádár (2017) claims that senior management is focused primarily on reducing of costs and, therefore, usually considers the wage only as a cost. Personal management considers the wage mostly as a means of recruiting the best employees on the market. Many successful foreign employers understand the wage on one hand as a means of influencing the behaviour and habits of employees. On the other hand the remuneration for the employer is a necessary and significant cost, and therefore requires a certain level of control. The remuneration is perceived as a powerful tool to support the realisation of the employer's strategic objectives. From the point of view of the employee, various internal rules and generally binding wage rules affect their overall income and the resulting standards of living. When comparing wages, the amount of income, and in particular its fairness, is often a sensitive issue. According to Mura et al. (2019) remuneration is part of personnel work and is one of the activities of human resources management. It deals with the development of pay systems in the organisation and uses individual tools to influence employee motivation and work performance.

## **2 Objective, material and methodology**

The main objective of the contribution is to provide a comprehensive and for managerial practice more precise understanding of the concept of wage as a form of remuneration of human resources. In addition to the main objective, we have chosen sub-objectives:

1. verify the presumption that at present the statutory wage regulation is sufficient;
2. to analyse individual types and forms of wage, critically to assess and possibly provide proposals “de lege ferenda”

In the context of the processing of the subject matter, we applied the primary qualitative methods in the light of the nature of the topic examined. Our main objective and milestones are to be achieved, in particular through a thorough study of legislation, scientific and academic literature, and case law. Due to the nature of the scientific article, we use a number of scientific methods of knowledge suitable to knowledge of personnel management in the context of the law. This concerns in particular the use of critical analysis for the review of the legal situation and of the legislation as well as an abstraction. We share the different views of economists, managers as well as lawyers on the correctness of the individual views on the

wage, using the comparative method. In doing so, we are seeking a multidisciplinary approach to research. We verified the theoretical findings on a selected sample of companies. Within the project VEGA 1/0813/19 "Managing the development of innovative and start-up forms of businesses in the international environment and verification of the INMARK concept" we try to identify innovative management methods in remuneration. In the preliminary research, 400 entrepreneurs operating in the sector of small and medium-sized enterprises (hereinafter referred to as "SMEs") were contacted. However, 324 respondents were willing to cooperate, and we also evaluate their answers using the methods of descriptive statistics. Due to our own long-term practical experience in the field of business law, we are also using the doctrinal interpretation. A specific and very important place in our research is given to the academic and scientific literature.

### **3 Results and discussion**

Among the most important obligations of the employer is the provision on a wage paid to the employee for the work done. Its legal definition is laid down in Section 118 (2) of Act No. 311/2001 Coll. of the Labour Code, as amended (hereinafter referred to as the Labour Code). According to it, the wage is monetary or consideration of a monetary value (income in kind) provided by the employer to the employee for his work. As pointed out by the Noskova (2020) Labour Code, there is also a negative definition of what is not considered to be a wage. This is in particular the form of compensation for wage, compensation and severance pay, travel expenses, including unclaimable travel allowances, contributions from the social fund. The wage is also not a compensation for standby duty, a compensation in lieu for the cessation of employment in accordance with Section 83, letter a (4) of the Labour Code and other fulfillment provided to the employee with respect to employment under special regulations. However, as a wage is considered fulfilment provided by the employer to the employee for work on the occasion of his working anniversary or his life anniversary if it is not provided from the after tax profit or the social fund.

The principle of contractual freedom is reflected, in particular, in the question of determining the amount of wage. However, a specific emphasis is put on the lowest wage threshold. It may not be lower than the minimum wage laid down in the special legislation which is the Act No. 663/2007 Col. on the minimum wage, as amended. The purpose of this special legislation is to regulate the provision of a minimum wage to an employee in an employment relationship or in a similar employment relationship to ensure a minimum level

of income for the employee for the work carried out by the employee. In order to determine the level of the minimum wage for an employee, paid by a monthly salary, the Slovak Government is entitled to do so. This power is exercised on the basis of the enabling provision of Section 2 (1) of the Minimum Wage Act, and this always applies for the calendar year in question on the basis of the under-statutory regulation, which is a government regulation in this case. The amount of the minimum wage per hour for work carried out by the employee is represented by the share in 1/174 of the monthly minimum wage. As recalled by Štefko (2019) it applies that, an employee, paid by a monthly wage who has agreed shorter weekly working hours or an employee who has not completed all working days in month, has a right to the minimum wage expressed in euros per month corresponding to the time he has been working.

The Labour Code requires, in a binding manner, that an employer has to agree on wage conditions with the competent trade union, either by collective agreement or directly with the employee in the employment contract. For a member of a cooperative whose working relationship to the cooperative is a condition of membership in the cooperative, the law allows for the regulation of the wage conditions also on the basis of a resolution of the member meeting of the cooperative. In particular, the content of wage conditions shall be the employer's agreement with the employee on the form of the remuneration of the employee, the amount of the basic component of the wage and other components of the wage provided for the work and the conditions under which they are provided. The basic component of the wage is calculated in accordance with the hours worked or the amount of work done.

Paragraph 119a of the Labour Code governs wages for the same work and for work of equal value. According to this provision, wage conditions must be negotiated in the absence of any discrimination based on sex or age. This applies to any remuneration and benefits paid or payable with respect to employment pursuant to other provisions of the Labour Code or special regulations. The principle of non-discrimination is also reflected in the fact that women and men have the right to equal pay for equal work or work of equal value. Work of equal or comparable complexity, responsibility and stress carried out in the same or comparable working conditions and achieving equivalent or comparable performance and work with respect to the same employer shall be considered to be equal work or work of equal value.

### **3.1 Minimum wage claims**

An employer with whom the remuneration of employees is not agreed in a collective agreement shall be required to pay to the employee a wage at least equal to the amount of the minimum wage claim for the level of difficulty of the work of the position in question. However, if the salary of an employee in a calendar month does not reach the amount of the minimum wage, the employer is required, by law, to provide the employee with a supplement equal to the amount of the difference between the wage obtained and the minimum wage entitlement established for the grade of the post concerned. However, some experts (Srebalová & al., 2020) add that such wages do not include the wage for the inactive part of on-call time at the workplace (stand-by), wage for overtime, wage benefits for work on public holidays, wage benefits for night work, nor wage compensation for difficult work performance. Furthermore, the hours worked do not include the hours of work and the inactive part of on-call time at the workplace (stand-by). For each position, given its nature, the employer must assign the degree of difficulty required by the contract of employment to be exercised by the employee, as agreed in the contract of employment. For the provision of weekly working time of less than 40 hours, the minimum rates of wage fixed in euro per hour shall be increased proportionally. Also under Mucha (2020), an employee remunerated by the monthly wage who has not worked for a specific weekly working time during the month or has an agreed shorter weekly working time, the rate of the minimum wage claim shall be reduced in proportion to the time worked in the month.

### **3.2 Forms of wage**

As key provision, we consider the provision of § 127 (1) of the Labour Code, which allows the employee and the employer to agree on the provision of part of the wage, with the exception of the minimum wage, in the form of a wage in kind on agreed terms. Even though, the Labour Code does not insist on the written form of such agreement, it prohibits the payment in kind of a spirit drink or other substances. Similarly, the fare reduction for the carrier's employee cannot be considered to be this type of wage. The wage in kind is expressed in monetary form in the price of the goods from the manufacturer or at the service prices from the service provider under the price rules in force at the time of the provision of wage in kind. Where an employer has established, within its premises, commercial equipment for sale of goods or for provision of services, it shall be prohibited, in any way, to force employees to purchase goods or to use their services in those commercial facilities. Where, for reasons of separation of operations, other trading facilities cannot be used, the employer

shall ensure that the sale of goods or the provision of services is not used for their own profit or that the goods are sold and the services provided at the prices at the place usual at the time of sale of the goods or provision of the services. Particular attention shall be given to Mura & al. (2019) the issue of wages in foreign currency. An employee with a place of work abroad under an employment contract may be paid or partly paid in a foreign currency. The conversion of the amount of the salary in euro into a foreign currency shall be done according to a reference exchange rate established by the European Central Bank or by the National Bank of Slovakia, in force on the day preceding the date set for the payment of the salary or on another agreed date.

In a sample of 324 small and medium-sized enterprises, we surveyed the methods of determining the wages applied by the employer in relation to employees. The results are presented in Pareto's graph 1. Respondents could also state several types of salary evaluation depending on the forms used by them.

**Fig. 1: Paret chart with wage forms**



Source: primary research, own processing

In practice, the most frequently used contractual salary in the sample is (126 cases), although according to the respondents, it does not always represent a sufficiently fair form of remuneration. Remuneration for work performed only in the amount of the minimum wage has been applied in 101 cases. According to research, this institute is mainly used in micro and small enterprises that are starting their own business activities. The tariff wage is

significantly less used (74 cases), the amount of which depends on a special law. Only 44 companies have to pay overtime and weekend bonuses. The research closes 23 companies applying the institute of wages in kind. The Pareto graph shows us the absolute numbers found in ascending order. The line shows the cumulative number.

### **3.3 Employee's wage allowances**

Wages for overtime work for a longer period of time give rise to a number of disputes and uncertainties between the employer and the employee. For overtime, that means, beyond the employee's working hours agreed in the contract of employment, the employee receives a wage and a wage benefit. It is at least 25 % of the average income of the employee. An employee working at risk jobs shall be given a wage benefit equal to at least 35 % of his average income. The legislator allows the employer to agree, in writing, with its managerial level employees, that the amount of wage will also take into account any overtime, but not more than 150 hours per calendar year. This means that in these cases the employee are not entitled to the wage nor the wage benefit for overtime. As further recalled by Kadar (2019), the employee is not even in a position to draw up, for this period, compensatory leave. In case of other employees, the employer may agree with them on the take-up of compensatory leave for overtime, provided that the employee has the right to compensatory leave in the extent of the work the he carried out but without the application of the wage bonus. Agreed compensatory leave shall be granted by the employer to the employee at all times within the agreed time. If the employer does not agree on the execution date with the employee, the employer shall be obliged to provide the employee with compensatory leave at the latest by the end of the four calendar months following that in which the overtime was performed. The consequence of failure to provide it by the deadline laid down in the law is that the employee is entitled to the wage benefit at least at the rate of 25 % of his average income and in case of risk work at least 35 % of his average income.

### **3.4 Wages and wage benefit for holiday**

The Labour Code specifically governs the wage benefit for work on a public holiday, in such a way that for such work, the employee receives a wage and a wage benefit of at least 50 % of his average income. A wage benefit is also awarded for work done on a public holiday which falls on a continuous rest period of employee in the week. Instead of provision of a wage benefit, Mura & Svec (2018) refers to the possibility for the employer to agree with the employee to take compensatory leave for work on public holidays, where the employee has an



hour of compensatory leave for each hour of work performed on holiday, but is not entitled to the wage benefit. If the employer, despite the agreement, does not grant the employee the compensatory leave for three calendar months or the period otherwise agreed after the work on public holiday, it is in the view of Seilerová (2020) the mandatory provision of the Labour Code applies that the employee has the right to the wage benefit equal to at least 50 % of his average income. For the purposes of compensatory leave, the employee shall be entitled to the compensation of wage in the amount of his average income. In case of an employee who is paid by a monthly wage, the time on the compensatory leave shall be treated as working time for which he is entitled to wage. However, to this Nováčková (2012) adds that that such employee is not entitled to compensation of wage for time of taking the compensatory leave for work on public holiday.

For an employee who is paid monthly, a public holiday that falls on his or her usual working day shall be deemed as a day worked for which he is entitled to wage. That employee is not entitled to wage compensation. Furthermore, as in the present case, a collective agreement or an employment contract may provide that an employee may be entitled to a wage benefit also in this case. The wage or wage compensation for public holidays is certainly not paid to an employee who fails to work during a work phase (work obligation) immediately preceding or immediately following the holiday without an excuse, or a work phase imposed by an employer on a public holiday or part thereof. Uhlerova (2020) consider that, with reference to the special valuation of leading employees, it is possible to agree, in the employment contract, on the amount of wage already considering any work during holiday. This means in business practice that managers as leading employees are not entitled to a wage benefit or compensatory leave for work on public holiday.

### **3.5 Wage benefits for night work**

A specific category of employees' remuneration is night work. The employee is entitled to a wage benefit of at least 20 % per hour of night work, in addition to earning regular wage, for each hour of night work. However, this amount is not calculated on the basis of the average wage but only on the basis of the minimum wage in euro per hour laid down in Act No. 663/2007 Col. on the minimum wage, as amended. Even in this case Nosková (2020) also stresses the possibility of agreeing on the wage to leading employees in the employment contract, taking into account any night work. Lasakova, Bajžíková & Dedze (2017) is therefore of the opinion that, in such a case, the wage benefit does not belong to such employees in this case.

The employee, directly under the Labour Code, is also compensated for difficulties in carrying out certain occupational activities which the competent public health authority has classified under the specific legislation in category 3 or 4. Under these conditions, Lazanyi & Fulop (2017) points out that, for each hour of this work, the employee is entitled, alongside regular wage, to wage compensation of at least 20 % of the minimum wage in euro per hour. He agrees with this view Sebokova & Popelkova (2016) and further adds that wage compensation can also be provided under other impacts. However, they have to make work more difficult for the employee or to negatively affect the employee, or even at a lower intensity of the factors of the working environment.

## **Conclusion**

The contribution submitted was primarily aimed at a critical analysis of the wage and individual aspects of the wage as the basic component of the remuneration of employees in the Slovak Republic. Wages are an important tool in the management of human resources. Based on the results of the partial stage of primary research, we can identify the contractual wage as the most frequent way of determining the wage valuation of employees. However, as we found out below, employers are also calling for the need to remove the harshness of the laws in order to allow for possible flexibility in contractual terms. In their view, such flexibility would allow for a better material involvement of the entities in the HRM. The second most frequently applied is the minimum wage institute used mainly in the subgroup of micro and small enterprises. This underlines the importance of this institute and the need for its appropriate parameters. The wage in kind is used only minimally, usually only in agri-food, where the average wage is only negligibly higher than the minimum wage. The examination of this concept of wage has revealed a number of important elements. The particularity of the Labour Code and other legislation according to our findings is that they guarantee the employee minimum wage claims. These should be sufficient to ensure a humane dignified standard of living, which is not always the case. However, in particular, we consider the establishment of the concept of the minimum wage, which is, in principle, decided by the Government of the Slovak Republic by means of a regulation in a very positive manner. From the point of view of companies, the minimum wage represents an exhaustively given cost item, which is reflected in the number of possible employees. Let us not forget the shifts in the curves from microeconomic theory, which the legislator should also have. Despite the fact that it is a sub-statutory piece of legislation, its significance has an

impact on the society as a whole and, therefore, on the business practice as well. The legislation examined as a whole is appreciated positively without the need for other ‘de lege ferenda’ proposals. The Labour Code, read in conjunction with the Law on Minimum Wage and Regulations of the Government of the Slovak Republic, is perceived as a realisation of the constitutional guarantee for employees, irrespective of their nationality, for fair and satisfactory working conditions, in particular the right to remuneration for work carried out. In the light of the above, we note that the objective pursued has been met.

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