Labour Law: Right to disconnect

The latest amendment to the Labour Relations Act (*ZDR-1D; OJ RS, No 114/2023 of 15.11.2023*) redefines, among other things, the **right to disconnect**. This is a new right of the employee, which allows the employer not to interfere with the employee's free time. Employers must take measures to implement the right to disconnect **by 16 November 2024 at the latest**.

Right to disconnect

The right to disconnect means that the **worker will not be available to the employer during his work off-time** or during periods of absence from work in accordance with the labour law and the collective agreement or the internal employer's labour law policy.

This right is a consequence of modern working life, where the boundaries between work and private time are often blurred. **Working with digital technology** can be carried out anywhere and at any time, including during leisure time or annual leave, and even during sick leave.

Purpose of the right to disconnect

The purpose of the right to disconnect is the worker's right to be able **to disconnect from digital devices and tools** for work purposes and not be at the employer's disposal during that time. This applies in particular to periods when the worker is legally absent from work (such as official break time during work, rest periods, public holidays, annual leave, maternity, paternity and parental leave and other types of absence from work).

The employer must take measures

The employer is therefore obliged to ensure that the employee is not at the employer's disposal when using the time off.

The employer **must take measures** to exercise the right to disconnect, which must be laid down in a **collective agreement** at the level of the industry. In the event that the measures are not laid down in a collective agreement, the measures shall be laid down **in the employer's internal policy.**

The employer will adopt a **Right to Disconnect Policy** and post it on its premises or use information technology (e-mail) to inform an employee.

In the event of a dispute between the employee and the employer over the employer's failure to provide the right to disconnect, the **employer bears the burden of proof**. It is therefore for the employer to provide evidence showing the measures it has taken to comply with the right to disconnect.

Employers must take measures to exercise the right to disconnect **by 16 November 2024 at the latest**

The right to disconnect and the measures to exercise it will be regulated either in industry **collective agreements** or company level or in the employer's **internal rules.**

The employer adopts **a Right to Disconnect Policy**, which must be followed by both, the employer and the employee.

Good practice examples

The legislator does not specify substantive measures for the exercise of the right to disconnect. In practice, **the employer** will therefore be **able to introduce measures** to exercise the right to opt-out **individually**, depending on his business specifics.

Due to the **nature of work**, employers may also be able to **restrict the right to disconnect** in certain cases (and for certain jobs).

Such cases may include:
- on-call duties,
- the rapid replacement of an absent colleague,
- unforeseeable circumstances
- in cases of urgency or emergency, where business and operational reasons require contact outside normal working hours.

The Slovene Ministry of Labour, Family, Social Affairs and Equal Opportunities has published some good practices from EU on the right to disconnect, which are presented below:

- **Shutting down the email server** outside working hours to prevent access to emails outside working hours.
- **Introduction of the "Mail on Leave" function,** whereby an employee sets up an automatic reply to an email, which **deletes** the received email and notifies the sender of its deletion and the other contact.
- **Manage emails** so that employees do not receive work emails during certain times (e.g. nights, weekends).
- **A comprehensive right to disconnect policy** with various measures:
    - restricting access to company emails after working hours,
    - limiting the expectation that employees are available for calls or meetings outside working hours,
    - promoting flexible forms of work.
- **Internal trainings and awareness campaigns** to inform employees about their right to disconnect from work-related communications outside working hours.

The good practice examples offer so-called hard and soft measures. **Soft measures** focus on making workers aware of their right to disconnect outside working hours, while **hard measures** effectively cut off access to work emails outside working hours.

Penalty for employer for non-compliance with the right to disconnect

Failure to respect the right to disconnect is punishable by a fine of **€1,500** up to **€4,000** for the employer and, in addition, a fine of **€150** up to **€1,000** for the responsible person of the employer (CEO).

WTS Draft Internal Rules

We prepared for clients and interested parties draft of *Internal Policy to exercise Right to Disconnect*, that we can adapt for your business to suit your company's business reality and needs.

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