

AGREEMENT ON IMPROVING EMPLOYEE QUALIFICATIONS – ONE OF THE EMPLOYEE STABILIZATION TOOLS IN THE WORKPLACE

Jana PŠENKOVÁ, Monika GULLEROVÁ

Abstract

Employee qualification is currently the focus of both employers and employees. Employees who raise their qualification improve their prospects in the labour market. Highly-qualified employees mean a competitive advantage so many employers are willing to invest in employee education programs. On the other hand, employers investing in employee education programs want to benefit from their highly-qualified employees. In the paper, the methods of analysis, logical and grammatical interpretation are employed to discuss the legal basis related to agreements on improving employee qualifications – the so called employee stabilization tool obliging employees to remain in the employment relationship. The quality and quantity of employee work contribution affects the volume of employer fulfilments, in particular fulfilments regarding the remuneration for the work done.

Key words

employee, employer, employee education, qualification, agreement on improving employee qualification.

JEL Classification: J53, J32, K31

Introduction

Employee education is provided by employers under their company welfare policies. A company welfare policy is a part of employment-law relations, in which the key characteristic of differentiation is not present. The legal status of individual employees affects the differentiation regarding the implementation of subjective rights and legal obligations. The quality and quantity of employee work contribution is the main criterion for differentiation. The quality and quantity of employee work contribution affects the volume of employer fulfilments, in particular fulfilments regarding the remuneration for the work done. As already mentioned, in issues related to company welfare policies under which education and learning activities are organized, the principle of differentiation is not applied.

Currently, the company welfare policies are regarded as an instrument of collective and individual human resource development in relation to achieving economic goals. The main goal of the welfare policy in an organization is to develop human resources and to create a good economic conditions and welfare at work (Masárová, Sika, Španková, 2011).

Laws on employee education are critical not only for the personal growth of employees, but also for employers. Employers attend to deepening or improving employee qualifications. Employers negotiate measures on deepening or improving employee qualifications with employee representatives.

Today, education must focus on the concept of human capital, which encompasses expert professionalism, well developed individual skills, intellectual potential, and professionally relevant personality characteristics (Strunz, Vojtovič, 2014).

Creative education focuses on developing creative abilities of man, consolidating his/her professional growth, as well as on innovations and analysing problems and various activities. Creative education supports self-awareness of facts, self-knowing of individuality, knowledge transformation to the potential of thought and self-development (Krajňáková, Vojtovič, 2015).

A great number of employers are willing to invest in employee education. Employers investing in enhancing employee qualifications want to benefit from their highly-qualified employees. The authors of the paper employed the methods of analysis, logical and grammatical interpretation to discuss the legal basis related to agreements on improving employee qualifications – the so called employee stabilization tool obliging employees to remain in the employment relationship.

Deepening and increasing qualification

Employee qualifications are currently the focus of both employers and employees. Education policies and education programs are primarily aimed to have skilled, educated and capable people available in order

to meet the current and future needs of an organization.

Education of today is designed to develop human personality, to which the content of education, i.e. knowledge, skills and habits, intellectual abilities, attitudes and specific characteristics required for the inclusion into society, is adapted. In addition, the concept of education has certain time limits, within which individuals shall prepare for their future, while lifelong learning is a must for a continuous development of individuals (Révészová, 2010, p. 825).

Corporate education refers to learning activities organized by a company, encompassing in-house learning activities, courses outside the company and on the job learning (Skopal, 2011).

Investing in human capital brings about improvement of performance, flexibility, and productivity, and enhances the ability to innovate, which naturally follows from continuous enhancement of qualification as well as skills and expertise of staff (Grenčíková, Vojtovič, Gullerová, 2013).

Investment in human capital refers to all the activities leading to increased quality of the work offered. These activities should then have permanent or at least repetitive impact, either monetary or psychical in nature (Vojtovič, Krajňáková, 2014).

In order to explain the role of education and expertise in building prosperity and economic growth, economists such as for instance Theodore Schultz and others used the metaphor of "capital" - the age-old economic concept. They claimed that people invest in their training and education to create a stock of skills and competences (capital) that can deliver long-term profitability. Such investments can be beneficial for the national economy in promoting economic growth (Štefančíková, 2015, p. 33).

Education of employees is regulated by the fundamental employment law in Slovakia – Act No. 311/2001 Coll. Labour Code as amended (hereinafter referred to as „Labour Code“). The terms of increasing and deepening qualifications are used, yet not defined in the Labour Code.

Deepening of qualification also includes its maintaining and refreshing. Qualification is deepened when deepening, maintaining or refreshing qualifications are done in the same qualification level obtained by completing appropriate education. It is a permanent upgrade the professional skills of employees that are necessary to perform the work under the employment contract (Barancová, 2012, p. 793).

Qualification is increased when the level of qualification achieved is higher, such as getting new

qualifications or obtaining qualifications by those who were not qualified before.

"Education – path to prosperity" is one of the most common slogans found in a number of materials, documents, and heard in seminars and conferences on human resource development. Prosperity mostly indicates increased consumption and competitiveness of countries / regions, low unemployment rates, etc. The strength of action of this approach, according to which education is a means to maintain and further develop economic prosperity is so great that it makes education policy both in individual countries and regions, as well as in multinational organizations and structures, as well as in the European Union. The current view of education as a means for maintaining and developing economic prosperity made countries and regions, as well as supranational corporations and the European Union adapt their educational policies accordingly (Grenčíková – Španková, 2012, p. 35).

Innovations and innovation policies and strategies implementations are one of the most important aspects of current international economics and business development issues. It is the key not only to creating more jobs and improving quality of life, but also to maintaining companies' competitiveness on the global market and states' economies' competitiveness enhancement within the international economics system (Kordoš, 2016).

Employees starting an employment relationship without qualifications can be provided trainings and/or tuitions by their employers. Upon training or tuition completion, employers will issue a certificate on training / tuition completion to respective employees. Training and tuition are short-term ways of getting qualifications, they do not take the form of continuing training for the occupation.

Employers are obliged to retrain the employees who are assigned to a new workplace or to a new job, when necessary, especially when reorganizing or downsizing. The issue of retraining is regulated by the Act No. 5/2004 Coll. on employment services and on amending and supplementing certain laws. In this case, employers shall conclude a written agreement with employees in question. Retraining takes place during working hours and is an obstacle on the part of an employee, for which he/she shall get a wage compensation in the amount of average earnings. Retraining outside the working hours is performed only if necessary regarding its provision. The respective Office of Labour, Social Affairs and Family may provide the employer, upon a written agreement, a financial contribution for the employee retraining.

An employee is obliged to systematically deepen his/her qualification for the performance of work as stipulated in the employment contract. An employer is

entitled to oblige the employee to participate in continuing education in order to enhance his/her qualification. Participation in education is the performance of work for which employees are to be paid a wage.

It follows that "deepening of qualification" as opposed to increasing qualification is an employee legal obligation. Thus, pursuant to § 154 section 3 of the Labour Code, employees are obliged to deepen their qualification, including its maintenance and deepening, necessary for performing their work, especially when tasked by employers" (Löwy, 2012).

Zamestnávateľ je teda oprávnený nariadiť zamestnancovi prehĺbenie kvalifikácie, a to nariadením účasti napr. na kurze alebo školení. Ak zamestnávateľ nariadi zamestnancovi účasť na ďalšom vzdelávaní za účelom prehĺbenia kvalifikácie a zamestnanec tento príkaz odmietne, resp. ho nesplní, je možné takéto konanie klasifikovať ako porušenie pracovnej disciplíny. Následkom takéhoto porušenia pracovnej disciplíny môže byť napríklad skončenie pracovného pomeru výpoveďou, prípadne mzdové opatrenie voči zamestnancovi (nepriznanie odmien a podobne).

Further education is understood, pursuant to §2 section 3 of the Act No. 568/2009 Coll. on lifelong learning and on amending certain laws, as "education in educational institutions of further education following previous school education. Further education allows to get a partial or full qualification or amend, renew, extend or deepen the qualification or to satisfy interests or to acquire ability to participate in society and civic life. Successful completion of further education does not mean getting an educational degree"

Agreement on improving qualifications

Agreement on improving qualifications or the so called stabilization agreement is a bilateral legal act between an employee and an employer. In order to conclude such an agreement, the expression of will of both an employer and employee is required. It has, however, to be noted employees cannot legally claim employer assistance in improving their skills. The legal claim arises upon concluding the agreement and its extent is specified in the agreement.

Agreement on improving qualifications has the functions related to:

- stabilization (employees are obliged to remain working with their employers),
- reimbursement (employer's obligation to reimburse employee costs for improving their qualifications),

- qualifications (the purpose is to improve employee qualifications).

Employers may, but are not legally obliged to, conclude with their employees an agreement on improving qualifications. Upon its conclusion, employers are obliged:

- to provide their employees days off,
- to provide their employees wage compensation,
- to reimburse other costs associated with the study.

The employer costs in connection with the conclusion of the agreement on improving qualifications include mainly employee wage compensation for the time off, as well as other expenses related to studies, such as for instance tuition fees, travel expenses, accommodation expenses, study literature, etc., whereas employers expect employees to pay back their investment in the form of stabilization commitment. This means that employers will be able to make use of the employee increased qualifications as a competitive advantage for at least the agreed period of time.

Employee stabilization commitment, resulting from the agreement on improving qualification, obliges employees in question to remain working with their employers after completing their studies or to pay the costs associated with the study, even when employees terminate their employment before completing their study. The agreement must be concluded in writing, otherwise it is invalid.

Agreement on improving qualifications must include the following information:

1. type of qualification and way of its increase (form of study),
2. field of study and school credentials,
3. the period for which the employee commits himself/herself to remaining in the employment relationship with the employer,
4. type of costs and their total sum that the employee shall be obliged to repay to the employer if he/she do not fulfil his/her commitment to remain in the employment relationship with the employer for the duration of the agreed period.

Expenditures on employee education and retraining and own educational establishments are employer tax expenditures pursuant to § 19 par. 2 point. c) Section 3 of Act No. 595/2003 Coll. on income tax, tax expenditures, which are applicable only to the extent and under the conditions laid down in this Act, i.e. on condition that they are used to generate, ensure and

maintain the employer income. On the part of an employee, pursuant to § 5 par. 7 point. a) of Act no. 595/2003 on income tax, exempt is only income specified as "the amount spent by the employer on employee training, which is linked to the activity or business of the employer; This exemption does not apply to the amounts paid to the employee as compensation for loss of taxable income. "

An employee is bound to remain with the employer for an agreed time up to five years. If an employee fulfils his/her obligation only in part, costs to be paid shall be reduced proportionately.

The agreed time does not include the following:

- performance of extraordinary service during a state of crisis or alternative service during wartime or in a state of war
- maternity and parental leave
- absence from work due to execution a sentence of imprisonment or detention, where an employee was legally sentenced to such.

An employer may conclude with an employee an agreement on increasing qualifications also with regard to reinforcing a qualification, if the expected costs amount to at least EUR 1,700. In this case an employee cannot be set reinforcement of his/her qualification as a duty.

The obligation of an employee to repay costs shall not arise, particularly, if:

- the employer during the course of increasing qualification ceased to provide time off from work and wage compensation, because the employee, through no fault of his/her own, became long-term incapacitated to perform such work for which he/she was increasing his/her qualification,
- the employment relationship was terminated by way of notice given by an employer for reasons pursuant to § 63, section 1, letter a) and b) of the

Labour Code or agreement for these same (the so called organization reasons),

- the employer is unable, according to medical opinion to perform the work for which he/she increased his/her qualification, or if he/she lost the long-term capacity to continue performing to hitherto work for reasons pursuant to § 63 section 1 letter c) of the Labour Code,
- the employer did not utilise, for a period of at least 6 months in the preceding 12 months, the qualification that an employee increased.

Conclusion

The issue of investment into human capital development under corporate welfare policies has become central for employers. Employee education takes both time and money. Employers may also opt for providing employees with a possibility to get qualifications they did not have before. In this case, employer support includes mainly providing employees in question a paid time off for the purposes of study and reimbursement of charges connected with the study. Undoubtedly, employers investing in raising their employee qualifications want to benefit from their newly acquired qualifications. One of the ways to guarantee that employees with increased qualifications do not leave their employers who supported their further education is to conclude an agreement on improving employee qualifications. Upon its conclusion, an employee is bound to remain with the employer for an agreed time up to five years. Therefore, such agreement is perceived as a stabilization agreement or one of the tools of employee stabilization in the workplace.

The paper was published under the VEGA project No. 1/0679/17 titled "Balance of economic losses and gains from the migration of work force".

Literature

Masárová, T., Sika, P., Španková, J.: *Sociálna politika – aplikačné praktikum*, FSEV TNUAD, Trenčín, 2011, str. 171

Barancová H. (2012): *Zákonník práce – komentár*, 2. vydanie. Praha. C-H-BECK, 1049s. ISBN 978-80-7400-416-2

Grenčíková, A., Vojtovič, S., Gullerová M. (2013). Staff qualification and the quality of tourism-related services in the Nitra region. *Bulletin of Geography. Socio-economic Series*, No. 21, Toruń: Nicolaus Copernicus University Press, pp. 41-48

Grenčíková, A., Španková, J. (2012). Prispôsobovanie vzdelávania potrebám ekonomiky. *Sociálno-ekonomická revue*. 10. (3), pp. 34-39.

Kordoš, M. 2016. Effects of the EU Competition Policy and Strategy Europe 2020 Symbiosis. *Proceedings of the 3rd International Conference on European Integration 2016 (ICEI 2016)*. pp.472-479

Krajňáková, E. , Vojtovič S. (2015). Vzdelávanie a príprava odborníkov pre kreatívny priemysel. *Sociálno – ekonomická revue*. 13 (2). pp. 87-99

Löwy, J. (2012). *Vzdelávanie v rámci zamestnania*. [online]. [cit. 2016-07-05]. Available at:

internete: <http://www.etrend.sk/podnikanie/vzdelavanie-v-ramci-zamestnania.html>

Révészová, L. (2010) . Vzdelávanie v kontexte znalostnej ekonomiky. *National and Regional*

Economics VIII. Košice : TUKE, Ekonomická fakulta, 2010, s. 821-838. ISBN 978-80-553-0517-2

Skopal, L. (2011). Metody vzdělávání manažerů. *Societa Iuventa*. Banská Bystrica : UMB, 2011

Strunz, H., Vojtovič, S.(2014). Vocational training and employment in the creative industry. *SGEM*

conference on political sciences law, finance, economics & tourism: Conference proceedings volume III

Economics & Tourism. Sfia: STEF92 Technology, 2014. pp. 787-794.

Štefančíková, A. (2015). Investície do rozvoja ľudského kapitálu v kontexte ekonomického myslenia. *Sociálno – ekonomická revue*. 13 (2) pp. 33-41

Vojtovič, S., Krajňáková, E. (2014). Development of new economy human capital. *Vadyba: Journal of management*. 25 (2) pp. 145-150.

Zákon č. 311/2001 Z.z. Zákonník práce v platnom znení. [online]. [cit.: 2017-28-02]. Available at: http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_mini_zak_vyber_hl1.asp?clear=N

Zákon č. 5/2004 Z.z. o službách zamestnanosti a o zmene a doplnení niektorých zákonov. [online]. [cit.: 2017-22-02]. Available at:

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_mini_zak_vyber_hl1.asp?clear=N

Zákon č. 595/2003 Z.z. o dani z príjmu. [online]. [cit.: 2017-08-03]. Available at:

http://jaspi.justice.gov.sk/jaspiw1/htm_zak/jaspiw_mini_zak_vyber_hl1.asp?clear=N

Kontakt:

JUDr. Jana Pšenková, PhD.

Department of Public Administration and Regional Economics

Faculty of Social and Economic Relations

Alexander Dubček University in Trenčín Študentská 3, 911 50 Trenčín, Slovensko

jana.psenkova@tnuni.sk

Mgr. Monika Gullerová, PhD.

Department of Social and Human Sciences

Faculty of Social and Economic Relations

Alexander Dubček University in Trenčín

Študentská 3, 911 50 Trenčín, Slovensko

minka.gullerova@tnuni.sk