

Termination of the agreement without notice

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□ Introduction

Termination of an employment contract without notice is **the most radical form of ending the employment relationship**. It can be applied **by both the employer and the employee**, but only in strictly defined situations. It does not require a notice period and has immediate effects.

□ 1. Legal basis

- **Art. 52-53 of the Labor Code** – termination of the contract by the employer,
- **Art. 55 of the Labor Code** – termination of the contract by the employee,
- Case law of the Supreme Court and positions of the National Labor Inspectorate.

□ 2. Termination of the contract by the employer - so-called “disciplinary dismissal”

□ When is it possible? (Art. 52 of the Labor Code)

The employer can terminate the contract without notice due to the fault of the employee if:

1. **They seriously violated basic employee duties**
 - e.g., refusal to follow orders, falsification of documents, theft, bullying, consuming alcohol at work.
2. **They committed a crime** (obvious or legally confirmed),
 - which makes further employment impossible.
3. **They lost the necessary qualifications to perform their work**
 - e.g., revocation of a driver's license for a driver, loss of a professional license.

☒ **Disciplinary dismissal can only be applied within 1 month** from the moment the employer became aware of the offense (art. 52 § 2 of the Labor Code).

☒ **Form:**

- **Written statement**, containing:
 - the legal basis (e.g., art. 52 §1 point 1 of the Labor Code),
 - a specific **and justified reason**,
 - **information about the right to appeal to the labor court**.

☒ **3. Termination of the contract by the employer for reasons not attributable to the employee**

☒ **Example: long-term absence due to illness (art. 53 of the Labor Code)**

The employer can terminate the contract without notice **without the fault of the employee**, when:

1. The employee is unable to work due to illness:
 - for a period **exceeding 3 months** (if the employee has been employed for less than 6 months),
 - for the duration of **sick and rehabilitation benefits** (if employed for a minimum of 6 months or if the incapacity is due to a work accident).
2. **Absence for other reasons** lasts more than a month (e.g., unpaid leave, detention, arrest).

☒ It requires documentation – e.g., a certificate from the Social Insurance Institution regarding the duration of the benefit.

☒ **4. Termination of the contract by the employee without notice**

☒ **When is it possible? (art. 55 of the Labor Code)**

The employee can terminate the contract without notice if:

1. **A doctor issues a statement** that work poses a threat to their health,
 - the employer did not transfer them to another job within the required time.
2. **The employer seriously breached basic obligations towards the employee**, e.g.:
 - does not pay wages,
 - violates health and safety regulations,
 - engages in bullying or discrimination.

□□ The employee must:

- **submit a written statement**, with justification,
- has the right to **compensation equal to the salary for the notice period**.

□□ **5. Certificate of Employment and consequences of termination of the contract**

- **Termination without notice must be recorded in the certificate of employment** (with the appropriate legal basis),
- May result in **loss of the right to unemployment benefits for 180 days**, if the fault lies with the employee (e.g., disciplinary dismissal),
- **Termination due to the employer's fault** – does not limit the rights of the employee.

□□ **6. Appeal to the labor court**

- The employee has 21 days from receiving the termination
- The employer has 21 days from receiving the statement

The court may:

- reinstate the employee,
- award compensation (from 1 to 3 months' salary).

Legal basis

- **Labor Code**, art. 52-55
- Supreme Court ruling from December 9, 2015 (II PK 403/14) – concerning serious violation of duties
- Supreme Court ruling from October 5, 2021 (II PSKP 55/21) – concerning termination by the employee without observing the term