

Competent institutions and competent experts

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Since January 1st, 2006, new laws came into the force that set a completely new procedure and requirements to the system of labour protection services where new participants emerge - competent institutions and competent experts. In this chapter you will find more information about the very system of the labour protection, the requirements to the competent experts and competent institutions as well as the information about the very institutions.

System of labour protection services 



Labour Protection Law, with the requirements of the EU law included, from the very day of its coming into force (January 1st, 2002) provided to create the labour protection system where the enterprises have an opportunity, but in some cases an obligation, to involve competent experts and competent institutions in the labour protection field. The model of competent institutions and competent experts is working in Europe for a long time already, whereas in Latvia it started to work in full just on the January 1st, 2006, when the Regulations Nr.99 of the Cabinet of Ministers of the February 8th, 2005, "Regulations about the Kinds of Entrepreneurship where a Competent Institution has to be Involved by the Employer" and Regulations Nr.101, "Regulations about the Requirements to the Competent Institutions and Competent Experts in the Labour Protection Matters and about the Procedure of Evaluation the Competence." came into force.

The system of labour protection differs in each of the Member States of European Union, as differ the requirements both to the enterprises and to the competent experts and institutions. During the development of the Latvian system of the labour protection services, models of several states of European Union were explored, including the ones of Denmark, Nederland, Belgium and Spain. It is clear that in the beginning the requirements can not be as high as in other countries where these systems work for many years and even decades already. Therefore in setting requirements to the competent institutions and competent experts as well as to the enterprises that are obliged to draw in the competent institutions, the system has been developed as flexible to the enterprises as possible. In relation to the competent institutions and competent experts the requirements are set at the lowest level that still guarantee the quality of services provided.

So far several institutions and experts worked in Latvia that offered their labour protection services to enterprises, but the quality was very different so that the employers had to rely largely to their intuition or the recommendations of their colleagues in order not to choose the provider of services of a poor quality. The new system ensures a certain level of competence both of the competent institutions and competent experts that hopefully will ensure also a relevant level of services for the enterprises.

With competent institutions and competent experts, the institutions or experts of the third parties should be understood that the employer involves in arranging their system of labour protection of their enterprise, including the evaluation of the risks of the working environment and developing the measures for their prevention. The Article 9, Part 6 of the Labour Protection Law provides that the Cabinet of Ministers set the requirements to the competent institutions and competent experts as well as to the procedure of the evaluation of their expertise. This is provided by the abovementioned Regulations Nr.101 of the Cabinet of Ministers of the February 8th, 2005, "Regulations about the Requirements to the Competent Institutions and Competent Experts in the Labour Protection Matters and about the Procedure of Evaluation the Competence".

The relatively higher requirements to the competent institution are set because in some kinds of entrepreneurship stated in the Appendix 1 to the Regulations Nr.99 of the Cabinet of Ministers of the February 8th, 2005, the enterprises are obliged to use the services of a competent institution. In turn, drawing in a competent expert is voluntary in all cases.

Basically, involving the competent institution and competent experts is voluntary. Yet there are cases when, according to the Labour Protection Law, such involvement is obligatory. First, if the employer can not create an organizational structural unit in the enterprise in the volume and level as required by the Labour Protection Law (Article 9) and other laws of labour protection, then they involve a competent institution or a competent expert for the creation and maintenance of the system of labour protection.

In turn, if an enterprise is involved into commercial activities mentioned in the Appendix 1 to the Regulations Nr.99 of the Cabinet of Ministers of the February 8th, 2005, "Regulations about the Requirements to the Competent Institutions and Competent Experts in the Labour Protection Matters and about the Procedure of Evaluation the Competence", then the employer is obliged to involve a competent institution into the creation and maintenance of the system of labour protection. The kinds of the commercial activity mentioned in the Regulations are set based on the analysis of the situation in the state during several years in relation to the accidents at work and to the occupational diseases. In these kinds of commercial activity the situation is worse than the average in the state. As the enterprises themselves in these fields were not able to implement and maintain successfully the system of labour protection, it was decided to oblige them to use the services of a competent institution. At the same time, taking into the consideration that even within the limits of one particular field of commercial activity the situation in enterprises in relation to the labour protection can be radically different, there are exceptions provided in the Regulations when the enterprise that has put in order its working environment and labour protection system and that has accordingly reported to the State Labour Inspectorate, will be entitled not to draw in a competent institution. Also, the small enterprises with the number of employees not more than five will not be obliged to involve a competent institution. Thus most of the agricultural and fishing farms will not have to use the services of competent institutions and will have to put the working environment in order by themselves.

In order to get a practical result of the involvement of a competent institution that improve the situation in the enterprise, the Regulations also set the minimum volume of services that the competent institution has to provide in the enterprise:

- evaluate a working environment risk;

- evaluate the compliance of the enterprise to the requirements of the labour protection laws and related laws (for example, fire prevention, chemical substance and chemical product safety, safety of dangerous equipment);

- develop a plan for labour protection in order to eliminate the disclosed risks of the working environment or to reduce them to the accepted level, and ensure the compliance of the enterprise to the requirements of the laws of labour protection.

Taking into the consideration that the situation in the fields of entrepreneurship can change with time, the Appendix 1 to the Regulations will be reviewed after a certain period of time in order to exclude the fields where the situation would be improved notably and if necessary, to include new fields in the list where the situation would worsen.

The mechanism of the operation of the competent institutions and competent experts and the services provided by them the enterprises should consider as an opportunity to improve their working environment and not as an additional burden. Enterprises that already have their own labour protection experts who deal successfully with the issues of labour protection in the enterprise and who have created a well-functioning system of labour protection, do not have to use the services of competent institutions.

The results of this new system of labour protection services will hopefully be apparent in the next few years already when they will show both in the working environment of the enterprises and in the statistics of accidents.

Competent Institutions 



According to the Article 1, Item 10 of the Labour Protection Law, *acompetent institution is an institution that on the*

grounds of a relevant agreement provides the internal supervision of the working environment of an enterprise and whose expertise in the labour protection issues has been evaluated in accord with the procedure set by the Cabinet of Ministers.

The evaluation of the expertise of the competent institutions is regulated by the Regulations Nr.101 of the Cabinet of Ministers of the February 8th, 2005, "Regulations about the Requirements to the Competent Institutions and Competent Experts in the Labour Protection Matters and about the Procedure of Evaluation the Competence

According to the Regulations, a competent institution is entitled to perform an internal supervision of the working environment in the enterprises if a relevant announcement is published in the newspaper "Latvijas Vēstnesis" and if the following minimum requirements are met:

1. it meets the requirements set in the Standard of LVS EN ISO 9001:2001 "Systems of Quality Management. Requirements" and its expertise in the issues of labour protection is evaluated in accord to the requirements of the present Regulations;
2. the institution has insured its civil liability in the amount sufficient for covering the expenses incurred by the receiver of the services in the case of a possible error. The expenses would be calculated together with the insurance company chosen by the competent institution within the evaluation of the risks of the field of operation of the institution;
3. the institution has an expert with a higher education in the field of labour protection at its disposal as well as an expert with the education and qualification of occupational disease doctor or occupational health doctor.

Evaluation

In order to comply with the requirements of the Regulations Nr.101 an to certify its expertise in the matters of labour protection, the institution applies to the institution of Quality System Certification that provides the evaluation of the expertise in the field of labour protection in accord with the requirements of the Standard of LVS EN ISO 9001:2001 "Systems of Quality Management. Requirements" and of the Regulations Nr.101 of the Cabinet of Ministers.

In the evaluation of the expertise of an institution in the field of labour protection, the institution of quality system certification shall take into consideration the following:

1. the requirements to the staff of the competent institution;
2. the relevance of the resources and technical capacity of the institution (for example, the working equipment, the equipment of the laboratory) to the prospective services.

If the evaluation of the expertise of the institution shows that it complies with the requirements of the Regulations and Standard then the institution of quality system certification issues the Quality System Certificate and states there the compliance of the institution to the requirements of these Regulations.

After receiving the Quality System Certificate the institution is not yet entitled to provide the labour protection services before it is evaluated by the relevant commission of the Ministry of Welfare and an announcement is published in the newspaper "Latvijas Vēstnesis" that it has been acknowledged as a competent institution. Therefore the institution wishing that the Ministry of Welfare publish a relevant announcement in the newspaper "Latvijas Vēstnesis" submits an application to the Ministry that contains:

the name, legal and postal address of the enterprise;

the manager of the enterprise (name, surname);

area of activity where the competent institution wishes to be announced in;

in the case if the competent institution is a structural entity of an enterprise, then the information about the

ownership;

the contact person responsible for the application (name, surname, number of telephone, fax and e-mail).

The following documents should be attached to the abovementioned application:

1. the document issued by the Register of Undertakings that certifies the registration of the enterprise in the Commercial Register (submit a copy, present the original);
2. the constitution of the enterprise (submit a copy, present the original);
3. the quality systems certificate of the competent institution issued by the institution of quality systems certification (submit a copy, present the original);
4. the documents certifying the knowledge and expertise of the staff of the competent institution (copies);
5. proofs of the coverage of civil liability that guarantees the coverage of the expenses incurred because of the error of the competent institution not less than 20.000 lats (for example, a policy of the civil liability insurance, a guarantee letter from a bank or a specifically designed deposit in the bank);
6. in the case if the competent institution is a structural entity of an enterprise - a structural scheme of the enterprise;
7. the description of the prospective services of the competent institution.

The application of the competent institution and the documents attached will be examined by the claimants' evaluation commission composed by the Minister of Welfare and operating in accord with the Regulations Nr. 101 and the internal regulation of the Ministry of Welfare Nr. 25/NOR of the October 12, 2005, "The Procedure of Operation of the Commission for Evaluation the Claimants - Competent Institutions in the Labour Protection Matters" .

The Commission has faced many errors and imperfections made by the claimants of the competent institutions. For this reason the review of the documents was postponed until the updated information was received.

Within 10 days of receiving the abovementioned application and documents the Commission shall examine them and issue the proposal to the responsible officer in the Ministry of Welfare to publish the announcement in the newspaper "Latvijas Vēstnesis" about the issue of the quality systems certificate to the competent institution or about a refusal to do so.

Within a month of making a positive decision the Ministry of Welfare publishes an announcement in the newspaper "Latvijas Vēstnesis" about the acknowledgement of the institution as a competent institution. Twice a year it publishes the list of the competent institutions whose certificate had been annulled during the last half a year.

Announced Competent Institutions

On November 17, 2005, in the newspaper "Latvijas Vēstnesis" (Nr. 184) the first five institutions (commercial bodies) were announced that were acknowledged as competent institutions in the matters of labour protection. These institutions had acquired the certificate of quality management systems according to the Standard of LVS EN ISO 9001:2001 "Systems of Quality Management. Requirements" and had met the requirements set by the Regulations Nr.101 of the Cabinet of Ministers of the February 8th, 2005, "Regulations about the Requirements to the Competent Institutions and Competent Experts in the Labour Protection Matters and about the Procedure of Evaluation the Competence". Thus the following institutions (commercial bodies) have been acknowledged as competent institutions in labour protection issues.

According to the Article 1, Item 11 of the Labour Protection Law, *acompetent expert is an expert who has the expertise to perform the internal supervision of the working environment in the enterprise and whose expertise has been evaluated according to the procedure set by the Cabinet of Ministers.*

According to the Regulations Nr. 101 of the Cabinet of Ministers, in order to perform the internal supervision of the working environment in enterprises, the competent expert needs the highest level knowledge (professional higher education) in the field of labour protection according to the program of second level professional higher education accredited by the Ministry of Education and Science (the Standard of Professions PS 0100 "Senior Expert in Labour Protection").

The senior expert in labour protection who has acquired the abovementioned education and who possess a relevant document should be equalized to the competent expert and is entitled to perform the internal supervision of the working environment in enterprises during five years from the day of receiving the document certifying the education. Upon the expiry of this date, the competent expert applies to the institution of personnel certification in order to receive a certificate of a competent expert that certifies the person's expertise in the issues of labour protection.

In order to receive a certificate of a competent expert, the claimant submits to the institution of personnel certification the application and the following documents:

1. a document that certifies acquiring the professional higher education in the labour protection according to the Standard of Professions PD 0100 "Senior Expert in Labour Protection"
2. a document certifying at least three years' practice in the field of labour protection (for example, work agreements, enterprise agreements, etc).

Within 30 days of receiving the documents the institution of personnel certification organizes the test of the knowledge and abilities of the claimant and evaluates the relevance of their expertise to the certification in the field applied, considering the requirements set in the Standard of Professions PS 0100 "Senior Expert in Labour Protection", Standard of LVS EN ISO/IEC 17024:2004 "Evaluation of Relevance - General Requirements to the Institutions of Personnel Certification" and the Regulations Nr.101 of the Cabinet of Ministers. If the expertise of the claimant is relevant to the set requirements then they are issued a certificate of a competent expert valid for five years.

Upon the expiration of the certificate, the competent expert applies for re-certification to the institution of the personnel certification in order to continue their work.

Before the start of the practice, the competent expert shall insure their civil liability in the amount sufficient to cover the expenses incurred by the receiver of the services in the case if they occur as a result of their professional activities. This requirement can be checked only by the employers though when making an agreement with a competent expert, so we would like to invite the employers to pay attention to this matter.