

Optimisation of labour relations in Ukraine during martial law

Introduction

1. Working time duration

2. Peculiarities of document turnover

3. Granting a leave

3.1. Annual leave

3.2. Unpaid leave

4. Suspension of an employment agreement

4.1. The legal nature of suspension

4.2. Formalisation of suspension

4.3. Appeal against a suspension order

4.4. Compensation of salary for the suspension period

B

On 19 July 2022, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Optimization of Labour Relations" (hereinafter referred to as the Law) entered into force. In this article, key changes to the Ukrainian labour legislation applied during the martial law period are described.

Related article: [Optimisation of labour relations in Ukraine](#)

1. Working time duration during martial law

www.DLF.ua

The normal number of working hours during martial law in Ukraine may be increased to 60 hours per week for employees working at critical infrastructure facilities (in the defence sector, vital public services, etc.).

For employees working at critical infrastructure facilities, who, in accordance with the legislation, are entitled to reduced working hours, working hours during martial law may not exceed 40 hours per week.

Note: both of the above norms, as well as the norm on possible reduction of weekly uninterrupted rest to 24 hours, do not apply to the work of minors.

If normal working hours are established beyond the norm set forth under Ukrainian law, remuneration is paid in an amount proportionate to the increase in the working hours norm.

5-day or 6-day working week is established by an employer.

2. Peculiarities of document turnover

During martial law in Ukraine, employers independently determine the organisation of record-keeping on labour relations, the execution and maintenance of work record books and the archival storage of the relevant documents in the areas of active combat operations. At the same time, it is necessary to ensure the maintenance of accurate records of the work performed by the employee and the recording of labour remuneration costs.

During martial law in Ukraine, the parties to an employment agreement may decide on alternative means of creating, forwarding, and storing the employer's orders (instructions), communications and other documents on labour relations and any other available means of electronic communication. The communication method must be agreed upon by the employer and the employee.

3. Granting a leave during martial law

3.1. Annual leave

Under martial law in Ukraine, granting of an annual basic leave to employees may be limited by an employer's decision to 24 calendar days for the current working year.

Related article: [Changes to the granting and use of leave in Ukraine](#)

If the duration of the employee's annual basic leave is more than 24 calendar days, the days of such leave not used during martial law shall be transferred to the period after termination or cancellation of martial law.

Under martial law, employers may refuse to grant unused days of annual leave to employees.

3.2. Unpaid leave

While martial law is in effect in Ukraine, the employer shall mandatorily grant unpaid leave at the request of an employee for the duration specified in the application. The duration of such leave may not exceed 90 calendar days. Such a leave does not count towards the length of employment entitling the employee to annual basic leave. Employees who have left Ukraine or have been given the status of an internally displaced person are entitled to this leave.

Thus, a new type of unpaid leave has been introduced, which must be granted to employees at their request. The Ministry of Economy of Ukraine in its Commentary to the Law notes that this type of leave shall not be deemed as unpaid leave, provided to an employee in accordance with the Law of Ukraine "On Vacations".

4. Suspension of an employment agreement during martial law

4.1 The legal nature of a labour agreement suspension

The Law defines the suspension of an employment agreement as an employer's temporarily ceasing to provide work for an employee and an employee's temporarily ceasing to perform work in line with the employment agreement due to Russia's military aggression against Ukraine, which makes it impossible for both parties to fulfil their obligations stipulated in the employment agreement.

Suspension of the employment agreement may be initiated by one of the parties for a period not longer than the duration of martial law in Ukraine. In case of decision to cancel the suspension of an employment agreement before the termination or cancellation of martial law, employers must notify their employees 10 calendar days in advance about the need to start work before resuming the employment agreement.

Suspension of an employment agreement does not entail termination of the employment relationship.

4.2. Formalisation of suspension

Suspension of employment shall be executed by an employer's order (instruction) which shall state, inter alia, the following:

- information on reasons for the suspension, in particular the inability of both parties to perform their duties;
- the method of information exchange;
- the suspension period;
- the employees' number, categories, surnames, first names, patronymic (if any), registration number of a taxpayer identification card or passport series and number;
- terms and conditions for the renewal of the employment agreement.

4.3 Appeal against a suspension order (instruction)

If an employee(s) disagrees with an employer's order (instruction) to suspend an employment agreement, the employee or the trade union on behalf of the employee(s) may appeal to the State Labour Service or its territorial authority.

The order of the State Labour Inspectorate (its territorial body) to cancel the relevant order (instruction) or to eliminate the violation of Ukrainian labour law in some other way is binding on the employer within 14 calendar days from the date of receipt of the order.

In case of an appeal against the employer's order (instruction) to suspend the employment agreement granted prior to the Law entering into force, an injunction to invalidate the relevant order (instruction) may be issued.

Related article: Legal regulation of freelance work in Ukraine

The injunction may be contested by the employer in court within 10 calendar days.

4.4. Compensation of salaries for the suspension period

Compensation of salaries, guarantees, and compensatory payments to employees for the time of suspension of their employment agreement in full amount is incurred by the state, which carries out an armed aggression against Ukraine.

Compensation to employees and employers of funds related to labour relations lost as a result of armed aggression against Ukraine shall be made:

- at the expense of the aggressor state;
- using the assistance received from respective funds for recovery of Ukraine, inter alia, international funds, international technical and/or repayable or non-repayable financial aid and other sources stipulated by the legislation.

www.DLF.ua

The Cabinet of Ministers of Ukraine establishes the procedure for determining and reimbursing to employees and employers the amounts of money related to labour relations lost as a result of the armed aggression against Ukraine.