

Employment of Ukrainians abroad: new legal regulation

On 20 March 2023, the Parliament of Ukraine adopted the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Protection of the Rights of Labour Migrants and Combating Fraud in Employment Abroad" (hereinafter – the Law).

The Law provides for the cancellation of licensing for intermediary services in foreign employment. Instead, a "notification principle" is introduced. Now, intermediary companies will only have to notify the Ministry of Economy of Ukraine that they plan to engage in intermediary services in employment abroad by submitting a declaration. Such companies will be included in the public List of Business Entities Providing Intermediation Services. At the same time, state control and supervision authorities will retain the right to audit such companies.

In order to start providing intermediary services in employment abroad and to be included in the list of business entities providing such services, a business entity must:

1) be registered under the type of economic activity of intermediary in employment pursuant to the procedure established by law; 2) have a foreign economic agreement (contract) concluded with a foreign employer on the provision of intermediary services in employment, search and selection of employees and registration documents of a foreign business entity (the employer) in the country of its location.

The foreign economic agreement (contract) must be concluded in Ukrainian and one or more languages used in the country of the employer's location and kept by the business entity providing intermediary services in employment abroad for 3 years after its expiration.

3) have a registered place of business; 4) submit a declaration on conducting business activities in the field of intermediary services in foreign employment.

In addition, the Law provides for the obligation of intermediary companies to keep records of citizens who are employed abroad with their assistance and to submit reports on their activities to the Ministry of Economy of Ukraine.

The Law also introduces additional provisions to protect Ukrainian citizens who decide to work abroad. In particular, before Ukrainian citizens go abroad, employment intermediary company are obliged to provide them with the following:

a draft employment agreement (contract) certified by a foreign employer;

information in writing about the rights and guarantees provided to a person under the employment agreement (contract), as stipulated by the laws of Ukraine and the laws of the country of the employer's location;

contact details of the consular offices of Ukraine in the host country.

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The receipt of information and a draft employment agreement (contract) is to be confirmed by a written (electronic digital) signature of the citizen. These documents are kept by the business entity that provides employment agency services abroad for 5 years.

In order to employ seafarers and fishermen on board ships, the intermediary company is obliged to check whether the seafarers and fishermen employed through its intermediary have the qualifications required to perform the work requested by the shipowner and the documents confirming it.

The Law also creates additional mechanisms for the protection of labour migrants, in particular:

1) intermediary companies are prohibited to receive fees, commissions and other remuneration from citizens who have been provided with intermediary services in employment – instead, such services must be paid by the company looking for workers. Companies that violate the law will be subject to a fine of UAH 68,000 (equivalent to EUR 1,700) for collecting any fees, commissions, remuneration, or other types of payment for intermediary employment services in Ukraine or abroad from citizens;

2) carrying out activities by an intermediary company without being included in the List of Business Entities Providing Employment Agency Services Abroad will result in a fine of UAH 136,000 (equivalent to EUR 3,400) for the officials of the legal entity and individual entrepreneurs. Repeated violations within one year will be punishable by a fine of UAH 170,000 (equivalent to EUR 4,250).

The Law will come into force on 14 October 2023.