

## Employment in Ukraine: legal aspects

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When entering into employment agreements and contracts in Ukraine, one should take into account certain peculiarities of Ukrainian legislation. Not all provisions of employment contracts of foreign companies can be implemented in Ukrainian employment contracts.

It should also be borne in mind that Ukrainian labour law often protects the interests of employees more than those of the employer. The legal regulation of the protection of confidential information and commercial/trade secrets also has its own peculiarities.

### **1. Applicable law**

Pursuant to Ukrainian law, legal relations in which a foreign company is an employer under an employment agreement are generally not governed by Ukrainian law. Representative offices of a foreign legal entity in Ukraine enter into employment agreements/contracts under Ukrainian law.

### **2. Language**

In Ukraine, employment agreements/contracts must be concluded in the Ukrainian language. It is also possible to conclude bilingual agreements/contracts.

### **3. Conclusion of employment agreements**

Employment agreements are generally concluded in writing. The possibility of concluding an employment agreement using electronic digital signatures is determined on a case-by-case basis. The legislation also contains a list of cases when an employment agreement should be concluded exclusively in writing.

### **4. Employment contract**

An employment contract is a form of employment agreement where the term of the agreement, rights, obligations, and liabilities of the

parties (including financial liability), conditions of material support and organisation of the employee's work, and conditions of termination of the agreement, including early termination, may be established by agreement of the parties.

Related article: Applying for a work permit in Ukraine

An employment contract may be concluded only with the categories of employees defined by Ukrainian law, such as a director. All other categories of employees are subject to an ordinary employment agreement.

## **5. Labour relations with the director**

An employment contract with a director should duplicate the restrictions contained in the charter of the Ukrainian company: e.g., on the types and amounts of contracts that he/she is entitled to enter into, on opening/closing bank accounts, etc. It is necessary to avoid any discrepancies and misinterpretations of the provisions of the employer's charter regarding the powers of the director and the employment contract with the director.

Related article: Temporary residence permit in Ukraine

In Ukraine, the so-called "four-eyes principle" may also be implemented, although a number of peculiarities must be taken into account.

## **6. Position**

The titles of the employee's occupations must correspond to the titles in accordance with the Classification of Occupations, currently in force in Ukraine. The professions and positions may not be specified in arbitrary form.

## **7. Validity term**

A fixed-term employment agreement requires the grounds established by Ukrainian law. In their absence, the agreement shall be concluded for an indefinite period.

## **8. Probationary period**

The duration of the probationary period is established by law and, as a general rule, cannot exceed 3 months (for manual workers – 1 month). The possibility of establishing a different duration of the probationary period is subject to an analysis given the individual case.

## 9. Salary

In Ukraine, the amount of salary payable is always stated inclusive of all payments that may be deducted from the amount ("uncleared amount" or "gross amount"). The net amount payable to the employee may also be specified in the employment agreement/contract, but it is optional.

In an employment agreement, the amount of salary to be paid to an employee must be specified in UAH. The relevant equivalent in a foreign currency and the ratio formulas as of the date of actual payment may be specified as well. Salary payments must be made in UAH.

The amount of actual payments may also be regulated by establishing a part-time working day. This may be relevant for the regulation of payments to directors of companies in Ukraine who are non-residents and do not intend to stay in Ukraine permanently.

Salary payment deadlines are set by law. It is advisable to have your employment agreements/contracts reviewed by a Ukrainian accountant before signing them, especially the remuneration provisions.

The provisions on the mandatory payment and the amount of bonuses (e.g., annual bonuses based on the achievement of certain indicators, Performance Bonus), which are fixed in the policies of the international group, also require a detailed analysis before they can be implemented in an employment agreement/contract.

## 10. Leaves

In many countries, the basic period for which leave is granted is a calendar year, and a leave itself is measured in working days. In Ukraine, a working year and a calendar day are the reference periods, respectively.

Related article: Changes to the granting and use of leave in Ukraine

Accordingly, it should be borne in mind that:

- leave is granted for the working year worked, not for the calendar year;
- leave is granted for a maximum period of 12 months after the end of the year for which it is granted (and not, for example, until 31.03. of the following calendar year);
- in some cases, employees are entitled to additional leave, e.g., for the special nature of their work, such as irregular working hours or working at a computer. This should be taken into account if the employer wants to set the annual basic leave in excess of the statutory 24

calendar days and should be spelled out in detail in the employment agreement/contract so that an employee does not have the claim to more days of leave.

Any additional number of days of annual basic leave should be agreed with a Ukrainian accountant.

### **11. Compensation for unused vacation days**

At the employee's request, part of the annual leave may be replaced by monetary compensation, whereby the duration of the annual and additional leave granted to the employee must be at least 24 calendar days.

When an employee is dismissed, compensation for unused vacation days must be paid.

### **12. Paying taxes**

The procedure for paying taxes on income paid to employees is determined on a case-by-case basis. This is due to the fact that individual employment conditions must be taken into account, such as:

- the country of the employer's location;
- form of work (remote or at the employer's workplace);
- existence of double taxation treaties or other international agreements;
- place of work performance by a citizen of Ukraine;
- the employee's nationality;
- the income payment procedure, etc.

If the company is considered an employer under Ukrainian law, it also acts as its employee's tax agent. Accordingly, an employee may not independently pay taxes on his or her income.

### **13. NDAs**

Ukraine has established a procedure and regime for the protection of confidential information and commercial/trade secrets. For its effective implementation, it is necessary not only to sign a relevant agreement with an employee, but also to:

- officially establish a list of data that is deemed as such at the company,

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- determine the procedure for accessing such information,
- determine the use of corporate data storage devices, etc.

The storage of confidential information and information containing commercial or trade secrets requires a comprehensive solution.

#### **14. Personal data protection**

In Ukraine, employers are not entitled to require consent to the processing of personal data when hiring employees, except to the extent prescribed by the personal data protection legislation.

The employer should include a section on the use of the employees' personal data in the employment relationship or for other advertising and information purposes in the employment agreement or contract and ensure their protection, or obtain a separate written consent from each employee to use their personal data. Such consent may be withdrawn by the employees at any time.

#### **15. Transfer of intellectual property rights**

The procedure for transferring intellectual property rights to objects created by an employee should be set out in detail in the employment agreement. Furthermore, this procedure should be regulated in the employer's internal documents (orders, instructions, work assignments/tasks).

The employment agreement/contract with an employee should stipulate that all intellectual property rights to the intellectual property object created in connection with the performance of the employment agreement/contract belong to the employer, and the salary paid to the employee for the performance of his/her employment duties related to the creation of the intellectual property object also includes remuneration for the creation of the intellectual property object. To this end, the employer must follow the appropriate algorithms for assigning tasks (assignments) and recording their completion.

The company should also have rules for the use of equipment on which an employee may potentially create an intellectual property object, rules for storing and transferring information, using portable mediums, etc. All of these rules must be developed and approved in accordance with Ukrainian law, and each employee must be familiarised with them in person against his or her signature.

#### **16. Safety at work**

In Ukraine, occupational safety requirements are controlled by law and set in different ways depending on the form and nature of the work.

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The employer must ensure not only actual safety, but also the availability of regulations and instructions on labour safety (including remote work).

Employees must be familiarised with such rules and instructions in accordance with the law. Violation of such requirements may result in liability for both the employer and its executives.

### **17. Agreement termination**

Under Ukrainian law, an employee may not be required to give several months' notice of termination at his or her initiative. In Ukraine, an employee may terminate his or her employment by giving the employer 2 weeks' notice (in some cases, this period may be even shorter).

Termination at the employer's initiative may not be unfounded (e.g., simply with a few months' notice). For an employee to be legally dismissed at the employer's initiative, one of the grounds provided for by Ukrainian law must be present.

Any additional grounds for dismissal specified in the agreement are subject to detailed analysis to avoid their being challenged in court.

### **18. Mobilisation**

Ukraine is currently under martial law and mobilisation. When hiring, it is necessary to take into account the rules for fulfilling mobilisation requirements effective at the time of employment. These rules are subject to change and need to be monitored in each individual case. In addition, the employer has a number of obligations towards mobilised employees.

Related article: [Update on reservation of employees liable for military service in Ukraine](#)